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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

FIFTH PERIODIC REPORTS OF STATES PARTIES DUE IN 1999

ADDENDUM

Ukraine

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[20 September 1999]

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I. GENERAL INFORMATION ABOUT THE STATE AND ITS CITIZENS

1. Under the Ukrainian Constitution adopted by the Supreme Council in 1996, Ukraine is a republic.

2. The people are the bearers of sovereignty and the only source of power in Ukraine. The people exercise power directly and through bodies of State power and bodies of local self-government. State power in Ukraine is exercised on the principles of its division into legislative, executive and judicial power. Bodies of legislative, executive and judicial power exercise their authority within the limits established by the Constitution and in accordance with the laws of Ukraine.

3. The President of Ukraine is the Head of State and acts in its name.

4. The sole body of legislative power in Ukraine is the bicameral parliament – the Supreme Council of Ukraine, the constitutional composition of which consists of 450 National Deputies of Ukraine, elected on the basis of universal, equal and direct suffrage under a system of majority proportional representation.

5. The Cabinet of Ministers of Ukraine is the highest body in the system of bodies of executive power. The members of the Cabinet of Ministers of Ukraine are appointed by the President of Ukraine on the submission of the Prime Minister of Ukraine. Executive power in oblasts, districts and the cities of Kyiv and Sevastopol is exercised by local State administrations.

6. Local self-government is recognized and guaranteed in Ukraine. Local self-government is the right of a territorial community – residents of a village or a voluntary association of residents of several villages in one village community, residents of a settlement or city – independently to resolve issues of local significance within the limits of the Constitution and laws of Ukraine.

7. Ukraine is a unitary State. The system of the administrative and territorial structure of Ukraine is made up of the Autonomous Republic of Crimea, oblasts, districts, cities, city districts, settlements and villages.

8. Ukraine is composed of the Autonomous Republic of Crimea, 24 oblasts and the cities of Kyiv and Sevastopol, which have special status.

9. The Autonomous Republic of Crimea decides on the issues for which it is competent within the limits of authority determined by the Ukrainian Constitution.

10. The Autonomous Republic of Crimea has its own Constitution, representative body – the Supreme Council of the Autonomous Republic of Crimea – and Government – the Council of Ministers of the Autonomous Republic of Crimea.

11. There is single citizenship in Ukraine.

II. IMPLEMENTATION OF SPECIFIC ARTICLES OF THE COVENANT

Article 1

Paragraph 1

12. The adoption in 1991 of the Act Proclaiming the Independence of Ukraine by the Supreme Council of the Ukrainian SSR laid the foundation of a new chapter in the history of Ukraine: national independence was proclaimed and a new independent State was established – the State of Ukraine.

13. The preamble of the Ukrainian Constitution adopted in 1991 states:

> The Supreme Council of Ukraine, on behalf of the Ukrainian people, citizens of Ukraine of all nationalities,
>
> expressing the sovereign will of the people;
>
> based on the centuries-old history of Ukrainian State-building and the right to self-determination realized by the Ukrainian nation and the entire Ukrainian people;
>
> providing for the guarantee of human rights and freedoms and of worthy conditions of human life;
>
> caring for the strengthening of civil harmony on Ukrainian soil;
>
> striving to develop and strengthen a democratic, social, law-based State;
>
> aware of one's responsibility before God, one's own conscience and past, present and future generations;
>
> guided by the Act Proclaiming the Independence of Ukraine of 24 August 1991, approved by the national vote of 1 December 1991;
>
> adopts this Constitution, the Fundamental Law of Ukraine.

Paragraph 2

14. Under article 13 of the Ukrainian Constitution, the land, its mineral wealth, atmosphere, water and other natural resources within the territory of Ukraine, the natural resources of its continental shelf, and the exclusive (maritime) economic zone are objects of the Ukrainian people's right to property. Ownership rights are exercised on behalf of the Ukrainian people by bodies of State power and bodies of local self-government within the limits determined by the Constitution.

15. Every citizen has the right to use the natural objects of the people's right to property in accordance with the law.

Paragraph 3

16. The Ukrainian Constitution, adopted by the Supreme Council of Ukraine on 28 June 1996, proclaimed that the people is made up of citizens of all nationalities. Article 11 of the Constitution also defined the structural components of Ukrainian society – the Ukrainian nation, national minorities and indigenous peoples, and makes the State responsible for promoting their ethnic, cultural, linguistic and religious identity.

17. Under article 3 of the Ukrainian Act on National Minorities in Ukraine, "national minorities include groups of citizens of Ukraine who are not Ukrainians by nationality but demonstrate a feeling of national self-awareness and community among themselves". It should be noted that under the so-called "zero variant" adopted by Ukraine, those who became its citizens were all citizens of the former USSR who were living on its territory at the time of the proclamation of Ukrainian independence (24 August 1991) and all persons, irrespective of race, colour, ethnic origin or other status, who were permanently resident on Ukrainian territory and were not citizens of any other State when the Ukrainian Act on Citizenship of Ukraine entered into force (13 November 1991). Thus, all Ukrainian citizens of non-Ukrainian nationality obtained the right to be designated, at their own wish, as national minorities.

18. Article 6 of the Ukrainian Act on National Minorities in Ukraine states:

> "The State guarantees to all national minorities the right to national and cultural autonomy: the right to use and teach their national language or study their national language in State educational establishments or through national cultural societies, to develop national cultural traditions, to use national symbols, to hold national festivals, to profess their religion, to meet needs for literature, art and mass media and to establish national cultural and educational establishments. Monuments to the history and culture of national minorities on the territory of Ukraine are protected by law" (similar information on guaranteeing the right of national minorities to national and cultural autonomy is given on p. 9).

19. The development of the concept and legal status of indigenous peoples gave rise to certain difficulties since the concept (definition) of an "indigenous people" is not the same in international practice (law) and in Ukraine.

20. The Act on Local Self-government in Ukraine, which laid down a system and guarantees of local self-government, and the bases for the organization and activities of its bodies, was adopted in 1997. Under article 3 of the Act, "any restrictions on the right of citizens to participate in local self-government relating to their race, colour, political, religious or other opinions, sex, ethnic or social origin, length of residence in the territory concerned, or linguistic or other characteristics, are prohibited".

21. The Act also delegates authority to local State administrations with respect to the preparation and submission to local councils of draft programmes for the social, economic and cultural development of the regions and oblasts concerned, as well as programmes for national development in areas where there is a concentration of national minorities.

Article 2

Paragraph 1

22. Under article 21 of the Ukrainian Constitution, all people are free and equal in their dignity and rights. Human rights and freedoms are inalienable and inviolable.

23. Citizens have equal constitutional rights and freedoms and are equal before the law. There can be no privileges or restrictions based on race, colour, political, religious or other opinions, sex, ethnic or social origin, property status, place of residence, or linguistic or other characteristics (article 24 of the Ukrainian Constitution).

24. Foreigners and stateless persons who are in Ukraine on legal grounds enjoy the same rights and freedoms and also bear the same duties as citizens of Ukraine, with the exceptions established by the Constitution, laws or international treaties of Ukraine (article 26 of the Constitution).

25. No one may be restricted in his rights for belonging or not belonging to political parties or public organizations (article 36 of the Constitution).

26. Children are equal in their rights regardless of their origin and of whether they are born in or out of wedlock (article 52 of the Constitution).

27. Under article 64 of the Constitution, constitutional human and citizens' rights and freedoms may not be restricted, except in cases provided for in the Constitution.

28. Under conditions of martial law or a state of emergency, specific restrictions on rights and freedoms may be established with an indication of the period of validity of these restrictions. The rights and freedoms provided for in articles 24, 25, 27, 28, 29, 40, 47, 51, 52, 55, 56, 57, 58, 59, 60, 61, 62 and 63 of the Constitution may not be restricted.

29. In addition, the Ukrainian Constitution provides (in article 23) that every person has the right to free development of his personality if the rights and freedoms of other persons are not violated thereby, and has duties to society, ensuring the free and comprehensive development of his personality.

Paragraph 2

30. In order to provide these guarantees, article 66 of the Ukrainian Penal Code, "Violation of the equal rights of citizens on the grounds of their racial or national affiliation or attitude to religion", establishes liability for deliberate acts aimed at inflaming national, racial or religious enmity and hatred, demeaning national honour and dignity or citizens' feelings because of their religious opinions, and direct or indirect restriction of rights or granting direct or indirect privileges to citizens because of racial or national affiliation or attitude to religion.

Paragraph 3

31. Under article 55 of the Ukrainian Constitution, human and citizens' rights and freedoms are protected by the court.

32. Everyone is guaranteed the right to challenge in court the decisions, actions or omissions of bodies of State power, bodies of local self-government, officials and officers.

33. Everyone has the right to appeal for the protection of his rights to the Human Rights Commissioner of the Supreme Council of Ukraine.

34. After exhausting all domestic legal remedies, everyone has the right to appeal for the protection of his rights and freedoms to the relevant judicial international institutions or to the relevant bodies of international organizations of which Ukraine is a member or participant.

35. Everyone has the right to protect his rights and freedoms from violations and illegal encroachments by any means not prohibited by law.

36. In 1997, the Supreme Council of Ukraine adopted the Ukrainian Act on the Human Rights Commissioner of the Supreme Council of Ukraine. This Act provides that the aim of parliamentary monitoring of the observation of human and citizens' constitutional rights and freedoms is, in particular:

(1) to ensure protection of the human and citizens' rights and freedoms proclaimed by the Ukrainian Constitution, the laws of Ukraine and the international treaties of Ukraine;

(2) observance of and respect for human and citizens' rights by those specified in article 2 of this Act;

(3) prevention of violation of human and citizens' rights and freedoms or of the promotion of their renewal;

(4) promotion of the harmonization of Ukrainian legislation on human and citizens' rights and freedoms with the Ukrainian Constitution and international standards in this field;

(5) improvement and further development of international cooperation in the sphere of protection of human and citizens' rights and freedoms;

(6) prevention of any forms of discrimination in a person's realization of his human rights.

37. Under article 59 of the Ukrainian Constitution, everyone has the right to legal assistance. Such assistance is provided free of charge in cases established by law. Everyone is free to choose the defender of his rights.

38. The legal profession acts to ensure the right to a defence against accusation and to provide legal assistance in deciding cases in courts and other State bodies in Ukraine.

39. Under article 15 of the Ukrainian Code of Penal Procedure, justice in criminal cases is administered solely by the court. No one may be found guilty of committing a crime or given a criminal sentence except by the verdict of a court in accordance with the law.

40. Article 6 of the Ukrainian Code of Civil Procedure provides that justice in civil cases is administered solely by the court and on the basis of equality before the law and the court of all citizens regardless of origin, social or property status, racial or national affiliation, sex, education, language, attitude to religion, type and nature of occupation, place of residence or other circumstances.

41. The democratic transformation taking place in Ukraine is gradually being consolidated through normative legal instruments adopted by the Supreme Council of Ukraine. The most important of these is undoubtedly the Ukrainian Constitution adopted in June 1996. The chapter entitled "Human and citizens' rights, freedoms and duties" reflects the spirit of international legal instruments adopted by the entire world community, such as the Universal Declaration of Human Rights and the European Convention on Human Rights. The legislator thereby emphasized that the human being and his rights and freedoms determine the content and direction of State activities.

42. The constitutional guarantee of the right of each individual to appeal in court against the decisions, actions or omissions of bodies of State power and bodies of local self-government and their officers has led to a marked increase in the number of citizens' court applications in defence of their rights and freedoms. This demonstrates that a change is occurring in the role of the court, from that of a body administering punishment to that of a body administering justice, a body capable of providing the necessary protection for citizens against illegal infringements of their rights and freedoms.

43. Under article 55 of the Ukrainian Constitution, every citizen has the right to bring court proceedings against all illegal acts violating their legal rights and freedoms. At the same time, this principle is a general one, and the machinery for its implementation is at present in the stage of development.

44. No administrative courts have been established in Ukraine, so that all cases arising out of administrative legal relations are dealt with by courts having general jurisdiction.

45. In accordance with article 55 of the Ukrainian Constitution, a citizen has the right of direct appeal to the court in defence of his rights and freedoms that have been violated. Even where the citizen has from the outset chosen a way of settling his complaint outside the courts, he does not lose the right to appeal directly to the court and request it to hear his case, without waiting for it to be settled by an administrative body.

46. Article 55 of the Ukrainian Constitution in essence provides for the possibility of defending human and citizens' rights and freedoms if they are violated by State bodies or other legal subjects in their various spheres of activity, so that the courts receive appeals of the most

varied kinds. The bulk of them, however, relate to illegal decisions, actions or omissions of respondents working in the sphere of administration. These appeals are heard by courts under the procedure laid down in chapter 31-A of the Ukrainian Code of Civil Procedure.

47. The number of cases of citizens' appeals against illegal acts by organs of State power and their officials heard and decided by Ukrainian courts in 1998 was 12,367; in 9,685 (or 56 per cent) of these the suits were successful. The number of such cases was 3,160 in 1994, 3,750 in 1995, 6,277 in 1996 and 8,666 in 1997.

48. The number of cases coming before the courts is increasing every year. In 1998 1.7 million cases were heard, an increase of 13 per cent over 1997 and 50 per cent more than in 1993.

49. New categories of citizens' lawsuits which were not previously considered by courts in Ukraine are emerging. People are increasingly turning to the courts to defend their honour and dignity, and two-thirds of such cases are upheld.

50. Human and citizens' rights, freedoms and duties are enshrined in Chapter II of the Fundamental Law of Ukraine, the Ukrainian Constitution adopted by the Supreme Council of Ukraine on 28 June 1996.

51. In particular, article 21 of the Constitution states that all people are free and equal in their rights and duties. Human rights and freedoms are inalienable and inviolable.

52. Further developing the idea of observing the human rights proclaimed in the International Covenant on Civil and Political Rights, the Ukrainian Constitution guarantees that all citizens have equal constitutional rights and freedoms and are equal before the law, and also that there can be no privileges or restrictions based on race, colour, political, religious or other beliefs, sex, ethnic or social origin, property status, place of residence, or linguistic or other characteristics.

53. No violations of the principle of equality and no religious discrimination were recorded in Ukraine during the period under consideration.

54. Article 10 of the Ukrainian Constitution guarantees "the free development, use and protection of Russian and other languages of national minorities in Ukraine".

55. The Constitution of the Autonomous Republic of Crimea, adopted in 1998, guarantees autonomy, on an equal footing with the State language, Ukrainian, of the use and defence of Russian, Crimean-Tatar and the languages of other national minorities; the use of Russian, as the language of the majority of the population, is guaranteed in all spheres of public life.

56. It should be noted that programmes and films in Russian account for almost two-thirds of total radio and television broadcasting time in Ukraine. On 1 January 1998 1,300 newspapers were issued in Russian. According to data released by the State Statistical Committee of Ukraine, there were 21,246 general educational establishments in Ukraine in the 1998/99 school

year, including 16,032 (4,421,265 pupils) providing education in Ukrainian, 2,561 (2,313,901 pupils) in Russian, 108 (27,776 pupils) in Romanian, 18 (4,509 pupils) in Moldavian, 65 (21,214 pupils) in Hungarian, 6 (4,071 pupils) in Crimean-Tatar and 3 (1,109 pupils) in Polish.

57. In addition, there are 2,469 mixed general educational; establishments, including 2,394 Ukrainian-Russian, 28 Ukrainian-Hungarian, 7 Ukrainian-Romanian, 9 Russian Romanian, etc. Russian is studied as a subject in 90 per cent of general educational establishments. At the same time, 38,146 pupils are studying Crimean-Tatar, 2,484 Hungarian, 1,489 Polish, 1,433 Romanian, 1,246 Hebrew, 13,893 Bulgarian, 650 Modern Greek and 788 Gagauz.

Article 3

58. Equality of rights between men and women is ensured: by providing women with opportunities equal to those of men in public and political, and cultural activities, in obtaining education and in vocational training, in work and its remuneration; by special measures to protect women's work and health and the establishment of pension privileges; by creating conditions enabling women to combine work and motherhood; by legal protection and material and moral support for mothers and children, including paid maternity leave and other benefits for pregnant women and mothers (article 24 of the Ukrainian Constitution).

59. On 5 March 1999, the Supreme Council of Ukraine approved the Declaration on General Principles of Ukrainian State Policy concerning the Family and Women, which provides, in particular, that the Government shall guarantee and provide equal rights and opportunities for men and women, in accordance with basic human rights and freedoms, and shall ensure the elimination of all forms of discrimination against women.

60. Article 52 of the Ukrainian Constitution provides that children are equal in their rights regardless of their origin and whether they are born in or out of wedlock.

61. Any violence against a child, or his exploitation, must be prosecuted by law.

62. The maintenance and upbringing of orphans and children deprived of parental care is entrusted to the State. The State encourages and supports charitable activity with regard to children.

63. Everyone has the right to education.

64. Complete general secondary education is compulsory (article 53 of the Constitution).

65. Citizens are guaranteed freedom of literary, artistic, scientific and technical creativity, protection of intellectual property, their copyrights, moral and material interests that arise with regard to various types of intellectual activity.

66. Every citizen has the right to the results of his intellectual and creative activity; no one may use or distribute them without his consent, with the exceptions established by law (article 54 of the Constitution).

67. In order to restore work capacity, improve health, and also for bringing up children and meeting one's own vitally important needs and interests and the all-round development of the personality, the Supreme Council, in the Act on Leave, No. 505/96 of 15 November 1996, guaranteed the right to take leave.

68. In addition to the leave established for all Ukrainian citizens in work and employed under a work contract, this Act also grants women social leave, with the aim of protecting women's work and health, creating conditions enabling women to combine work with motherhood, legal protection and material and moral support for mothers and children, as follows: pregnancy and maternity leave, leave to care for a child up to the age of three, supplementary leave for workers with children and in some cases unpaid leave.

69. With a view to protecting women's and children's health, article 7, second paragraph, of the Ukrainian Act on Protecting People against the Effects of Ionizing Radiation", No. 15/98-VR of 14 January 1998, states that the involvement of persons under the age of 18 and women of child-bearing age in repairing radiation damage and its consequences is prohibited.

70. The Supreme Council of Ukraine, guided by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of All Forms of Discrimination against Women, the international treaties on the rights and freedoms of the individual ratified by Ukraine, the Final Documents of the Fourth World Conference on Women: Action for Equality, Development and Peace (Beijing, 1995) and the Resolution of the Supreme Council of Ukraine of 12 July 1995 on the Recommendations of Participants in the Parliamentary Hearings on Implementation in Ukraine of the United Nations Convention on the Elimination of All Forms of Discrimination against Women:

> attaching particular importance to the role of the family and women in the political, economic, social, historical and cultural development of Ukraine;
>
> considering the elaboration of State policy concerning the family and women to be a priority area of the activity of bodies of State power and bodies of local self-government;
>
> striving to improve the demographic situation, to ensure that the family performs its functions and to create legal, public, political and socio economic conditions for improving the situation of the family and women, enhancing their role in society and achieving the fullest possible flowering of their intellectual, spiritual and creative potential;
>
> adopted the Declaration on General Principles of Ukrainian State Policy concerning the Family and Women, No.475-XIV, on 5 March 1999.

Article 4

71. Under article 64 of the Constitution, constitutional human and citizens' rights and freedoms may not be restricted, except in cases provided for in the Ukrainian Constitution.

72. Under conditions of martial law or a state of emergency, specific restrictions on rights and freedoms may be established with an indication of the period of validity of these restrictions. The rights and freedoms provided for in articles 24, 25, 27, 28, 29, 40, 47, 51, 52, 55, 56, 57, 58, 59, 60, 61, 62 and 63 of the Constitution may not be restricted.

73. The articles of the Ukrainian Constitution whose application may be restricted in time of war or a state of emergency are:

(a) Article 26. Foreigners and stateless persons who are in Ukraine on legal grounds enjoy the same rights and freedoms and also bear the same duties as citizens of Ukraine, with the exceptions established by the Constitution, laws or international treaties of Ukraine.

Foreigners and stateless persons may be granted asylum by the procedure established by law.

(b) Article 30. Everyone is guaranteed the inviolability of his dwelling place.

Entry into a dwelling place or other possession of a person, and the examination or search thereof, shall not be permitted, other than pursuant to a substantiated court decision.

In urgent cases related to the preservation of human life and property or to the direct pursuit of persons suspected of committing a crime, another procedure established by law is possible for entry into a dwelling place or other property of a person, and for the examination and search thereof.

(c) Article 31. Everyone is guaranteed privacy of correspondence, telephone conversations and telegraphic and other communications. Exceptions shall be determined only by a court in cases established by law, with the purpose of preventing crime or ascertaining the truth in the course of the investigation of a criminal case, if it is not possible to obtain information by other means.

(d) Article 32. No one shall be subject to interference in his personal and family life, except in cases provided for by the Ukrainian Constitution.

The collection, storage, use and dissemination of confidential information about a person without his consent shall not be permitted, except in cases established by law, and only in the interests of national security, economic welfare and human rights.

Every citizen has the right to examine any information about himself or herself that is not a State secret or other secret protected by law, at bodies of State power, bodies of local self-government, institutions and organizations.

Everyone is guaranteed judicial protection of the right to rectify incorrect information about himself or herself and members of his family, and of the right to demand that any type of information be expunged, and also the right to compensation for material and moral damage caused by the collection, storage, use and dissemination of such incorrect information.

(e) Article 33. Everyone who is legally present on the territory of Ukraine is guaranteed freedom of movement, free choice of place of residence, and the right freely to leave the territory of Ukraine, with the exception of restrictions established by law.

A citizen of Ukraine may not be deprived of the right to return to Ukraine at any time.

(f) Article 34. Everyone is guaranteed the right to freedom of thought and speech, and to the free expression of his views and beliefs.

Everyone has the right freely to collect, store, use and disseminate information by oral, written or other means of his choice.

The exercise of these rights may be restricted by law in the interests of national security, territorial integrity or public order, with the purpose of preventing disturbances or crimes, protecting the health of the population and the reputation or rights of other persons, preventing the publication of information received confidentially, or supporting the authority and impartiality of justice.

(g) Article 35. Everyone has the right to freedom of personal philosophy and religion. This right includes the freedom to profess or not to profess any religion, to perform religious rites and ceremonial rituals alone or collectively and without constraint, and to conduct religious activity.

The exercise of this right may be restricted by law only in the interests of protecting public order, the health and morality of the population, or protecting the rights and freedoms of other persons.

The Church and religious organizations in Ukraine are separate from the State, and the school from the Church. No religion shall be recognized by the State as mandatory.

No one shall be relieved of his duties before the State or refuse to apply the laws for reasons of religious beliefs. In the event that the performance of military duty is contrary to the religious beliefs of a citizen, the performance of this duty shall be replaced by alternative (civilian) service.

(h) Article 36. Citizens of Ukraine have the right to freedom of association in political parties and public organizations for the exercise and protection of their rights and freedoms and for the satisfaction of their political, economic, social, cultural and other interests, with the exception of restrictions established by law in the interests of national security and public order, the protection of the health of the population or the protection of the rights and freedoms of other persons.

Political parties in Ukraine promote the formation and expression of the political will of citizens, and participate in elections. Only citizens of Ukraine may be members of political parties. Restrictions on membership in political parties are established exclusively by the present Constitution and the laws of Ukraine.

Citizens have the right to take part in trade unions with the purpose of protecting their labour and socio-economic rights and interests. Trade unions are public organizations that unite citizens bound by common interests that accord with the nature of their professional activity. Trade unions are formed without prior permission on the basis of the free choice of their members. All trade unions have equal rights. Restrictions on membership in trade unions are established exclusively by the present Constitution and the laws of Ukraine.

No one may be forced to join any citizens' association or be restricted in his rights for belonging or not belonging to political parties or public organizations.

All citizens' associations are equal before the law.

(i) Article 37. The establishment and activity of political parties and public associations are prohibited if their programme goals or actions are aimed at eliminating the independence of Ukraine, changing the constitutional order by violent means, violating the sovereignty and territorial integrity of the State, undermining its security, the unlawful seizure of State power, propaganda for war and violence, incitement of inter-ethnic, racial, or religious enmity, or encroachments on human rights and freedoms and public health.

Political parties and public associations shall not have paramilitary formations.

The creation and activity of organizational structures of political parties shall not be permitted within bodies of executive and judicial power and executive bodies of local self-government, in military formations, or in State enterprises, educational establishments and other State institutions and organizations.

The activity of citizens' associations can be prohibited only through judicial procedure.

(j) Article 38. Citizens have the right to participate in the administration of State affairs and in all-Ukrainian and local referendums, and freely to elect and be elected to bodies of State power and bodies of local self-government.

Citizens enjoy equal right of access to the civil service and to service in bodies of local self-government.

(k) Article 39. Citizens have the right to assemble peacefully without arms and to hold meetings, rallies, processions and demonstrations, if bodies of executive power or bodies of local self-government have been notified in advance.

Restrictions on the exercise of this right may be established by a court in accordance with the law and only in the interests of national security and public order, with the purpose of preventing disturbances or crimes, protecting the health of the population, or protecting the rights and freedoms of other persons.

(l) Article 40. Everyone has the right to file individual or collective petitions, or personally to appeal to bodies of State power, bodies of local self-government and the officials and officers of these bodies, which are obliged to consider the petitions and to provide a substantiated reply within the term established by law.

(m) Article 41. Everyone has the right to own, use and dispose of his property and the results of his intellectual and creative activity. The right to private property is acquired by the procedure determined by law.

In order to satisfy their needs, citizens may use the objects of the right to State and communal property in accordance with the law.

No one shall be unlawfully deprived of the right to property. The right to private property is inviolable.

The expropriation of objects of the right to private property may be applied only as an exception for reasons of social necessity, on the grounds and by the procedure established by law, and on condition of advance and full reimbursement of their value. The expropriation of such objects with subsequent full reimbursement of their value is permitted only under conditions of martial law or a state of emergency.

Confiscation of property may be applied only pursuant to a court decision, in the cases, to the extent and by the procedure established by law.

The use of property shall not infringe the rights, freedoms and dignity of citizens or the interests of society, or aggravate the ecological situation and the natural qualities of land.

(n) Article 42. Everyone has the right to entrepreneurial activity that is not prohibited by law.

The entrepreneurial activity of deputies, officials and officers of bodies of State power and of bodies of local self-government is restricted by law.

The State ensures the protection of competition in entrepreneurial activity. Abuse of a monopolistic position in the market, unlawful restriction of competition and unfair competition shall not be permitted. The types and limits of monopolies are determined by law.

The State protects the rights of consumers, exercises control over the quality and safety of products and of all types of services and work, and promotes the activity of public consumer associations.

(o) Article 43. Everyone has the right to labour, including the possibility to earn one's living by labour freely chosen or agreed. The State creates conditions for citizens fully to realize their right to labour, guarantees equal opportunities in the choice of profession and of types of labour activity, and implements programmes of vocational education, training and retraining of personnel according to the needs of society.

The use of forced labour is prohibited. Military or alternative (civilian) service, and work or service carried out by a person in compliance with a verdict or other court decision, or in accordance with the laws on martial law or on a state of emergency, are not considered to be forced labour.

Everyone has the right to proper, safe and healthy work conditions, and to remuneration no less than the minimum wage as determined by law.

The employment of women and minors for work that is hazardous to their health is prohibited.

Citizens are guaranteed protection from unlawful dismissal.

The right to timely payment for labour is protected by law.

(p) Article 44. Employees have the right to strike for the protection of their economic and social interests.

The procedure for exercising the right to strike is established by law, taking into account the need to ensure national security, health protection, and the rights and freedoms of other persons.

No one shall be forced to participate or not to participate in a strike.

A strike may be prohibited only on the basis of the law.

(q) Article 45. Every employee has the right to rest.

This right is ensured by providing weekly rest days and also paid annual leave, by establishing a shorter working day for certain professions and industries, and shorter working hours at night.

The maximum number of working hours, the minimum duration of rest and of paid annual leave, days off and holidays, and other conditions for exercising this right, are determined by law.

(r) Article 46. Citizens have the right to social protection, including the right to benefit in cases of complete, partial or temporary disability, the loss of the principal wage earner, unemployment due to circumstances beyond their control and also in old age, and in other cases established by law.

This right is guaranteed by general mandatory State social insurance through the insurance payments of citizens, enterprises, institutions and organizations, and also from budgetary and other sources of social security, and by the establishment of a network of State, communal and private institutions to care for persons incapable of work.

Pensions and other types of social payments and assistance that are the principal sources of subsistence shall ensure a standard of living not lower than the minimum living standard established by law.

(s) Article 47. Everyone has the right to housing. The State creates conditions that enable every citizen to build, purchase as property, or rent housing.

Citizens in need of social protection are provided with housing by the State and bodies of local self-government, free of charge or at a price which they can afford, in accordance with the law.

No one shall be forcibly deprived of housing other than on the basis of the law pursuant to a court decision.

(t) Article 48. Everyone has the right to a standard of living sufficient for himself and his family, including adequate nutrition, clothing and housing.

(u) Article 49. Everyone has the right to health protection, medical care and medical insurance.

Health protection is ensured through State funding of the relevant socio-economic, medical and sanitary, health improvement and preventive health programmes.

The State creates conditions for effective medical services accessible to all citizens. State and communal health protection institutions provide medical care free of charge; the existing network of such institutions may not be reduced. The State promotes the development of medical institutions in all forms of ownership.

The State provides for the development of physical culture and sports, and ensures sanitary-epidemic welfare.

(v) Article 50. Everyone has the right to an environment that is safe for life and health, and to compensation for damage caused by the violation of this right.

Everyone is guaranteed the right of free access to information about the state of the environment, the quality of food and consumer goods, and also the right to disseminate such information. No one may keep such information secret.

In addition, under article 22 of the Ukrainian Act on States of Emergency, a resolution of the Supreme Council of Ukraine or a decree of the President of Ukraine establishing a state of emergency must list and indicate the limits of the emergency measures being taken in the state of emergency.

Supplementary measures may be introduced or approved by a separate resolution of the Supreme Council of Ukraine.

74. The following measures may by introduced for the duration of the state of emergency:

(1) establishment of special regulations governing entry and departure, and restriction of the right to free travel across the territory subject to the state of emergency;

(2) restriction of the movement of transport vehicles and their inspection;

(3) enhanced protection of social order and of objects which ensure the vital activity of the population and the national economy;

(4) prohibition of assemblies, meetings, street marches and demonstrations, as well as shows, sports events and other mass gatherings;

(5) prohibition of strikes.

75. Article 23 of the Act stipulates that where a state of emergency is declared for the reasons specified in article 4, paragraphs 2, 3, 4, 5 and 6, of the Act, the following supplementary measures may be introduced:

(1) introduction of a curfew (prohibition of being on the streets and in other public places without a special permit and individual authorizations during specified hours of the day or night);

(2) cessation, after the necessary notice, of the activities of political parties and public organizations, mass movements and citizens' independent associations if such activities hinder the normalization of the situation;

(3) inspection of citizens' documents and, where necessary, personal examination, inspection of property, vehicles, luggage and freight, and citizens' service premises and homes;

(4) restriction or temporary prohibition of the sale of arms, poisonous and potent chemicals and liquor;

(5) temporary confiscation from citizens of registered firearms and side-arms and ammunition, and also from enterprises, institutions and organizations educational military technology, explosive and radioactive substances and materials, and poisonous and potent chemicals;

(6) introduction of censorship, restriction of the publication of newspapers;

(7) expulsion of persons who are not residents of the area concerned and are infringing public order to their place of residence or outside the place where the state of emergency has been declared, at their expense;

(8) prohibition of the preparation and distribution of information likely to destabilize the situation;

(9) special rules for communications.

76. Under article 24 of the Act, where a state of emergency is declared for the reasons specified in article 4, paragraph 1, of the Act, the following measures may be applied in addition to those provided for in article 22:

(1) temporary displacement of people from places in which it is dangerous for them to be, with obligatory provision to them of long-term or temporary housing;

(2) temporary prohibition of the construction of new, or extension of existing, establishments and other units;

(3) application of quarantine and other essential sanitary and anti-epidemic measures;

(4) introduction of a special system for distributing food products and essential items;

(5) mobilization of the resources of establishments, institutions and organizations, changes in their work schedules, changeover to production of goods that are essential in a state of emergency, and other changes to productive activity needed to carry out emergency rescue work;

(6) use of the resources of establishments, institutions and organizations, irrespective of their form of ownership, to avert danger and eliminate the consequences of states of emergency;

(7) removal from work, for the duration of the state of emergency, of directors of State establishments, institutions and organizations on whose activities normalization of the situation in the area of the state of emergency depends, if they are performing their functions improperly, and appointment of others to carry out their duties temporarily.

77. With a view to eliminating the consequences of natural disasters, emergencies and catastrophes in peacetime, full mobilization, the extent and duration of which is determined by the President of Ukraine, may be carried out.

78. In exceptional cases involving the need to perform urgent emergency rescue work, able-bodied persons and citizens' vehicles may be enlisted to carry out this work, on condition that the safety of the work must be guaranteed. The enlistment of minors or pregnant women for work which may have an adverse effect on their state of health is prohibited.

Article 6

79. One of the most important attributes of a legal State and a developed democracy is the genuine implementation of human rights. The effort to construct a democratic socially-oriented

State in Ukraine and the establishment of functioning structures of civilian society imply the need to find effective machinery to guarantee human rights. The central focus of the Ukrainian Constitution - the norms, which have direct application - is placed on human rights and freedom.

80. Article 3 of the Ukrainian Constitution proclaims that the human being, his life, health, honour and dignity are the highest social value. There is no place for capital punishment in a State which has proclaimed these values.

81. Taking into account the principles of humanism and of Ukrainian legal tradition, the Ukrainian Ministry of Justice has therefore prepared a draft Ukrainian Act on the introduction of amendments and additions to the Ukrainian Penal Code with respect to the application of the death penalty, which is now before the Supreme Council of Ukraine.

82. The draft proposes the addition of a new part to article 24 of the Penal Code stipulating that capital punishment will not be applied as a punishment during peacetime.

83. It has been proposed in the draft to add a new type of criminal punishment to the Code - life imprisonment. It is proposed that this punishment norm should be applied for the commission, in particular, of crimes for which the present Code prescribes only the death penalty.

84. The exclusive application of the death penalty is not provided for in the draft Ukrainian Penal Code, which was adopted by the Supreme Council of Ukraine on first reading on 10 September 1998.

85. This punishment has been replaced by life imprisonment, which is applied only for crimes against life and in cases specially laid down by law. It is not proposed to sentence individuals who committed a crime before the age of 18, women or men over the age of 65, to life imprisonment. Conditional early release after 25 years is possible with a sentence of life imprisonment.

86. It should also be noted that no death sentence has been handed down in Ukraine since 11 March 1997.

87. Under article 7 of the Decree of the President of Ukraine on Pardoning Persons Found Guilty by Ukrainian Courts, the implementation of a death sentence is halted until the President of Ukraine has examined a petition for clemency or documents certifying that the convicted person does not wish to file a petition for clemency. The President of Ukraine issues a decree on the results of his examination.

88. During this period the president of Ukraine has not issued a single decree rejecting a petition for clemency.

89. Furthermore, we wish to report that, under the second paragraph of article 24 of the Ukrainian Penal Code, persons who were under the age of 18 when the crime was committed and

women who were pregnant when the crime was committed or when sentence is passed cannot be sentenced to death. The death penalty cannot be applied to a woman who is pregnant when the sentence is to be carried out.

90. The present Ukrainian Penal Code provides for application of the highest punishment - the death penalty - to the most serious crimes, crimes that are dangerous for society. At present, only 23 articles of the Penal Code provide for the possibility of the death sentence, of which only 5 apply to peacetime, the remaining 18 being only for war crimes committed in time of war or a combat situation.

91. The new draft Penal Code, which has been considered in first reading by the Supreme Council of Ukraine, does not provide for punishment by death. Instead, a new type of criminal punishment will be introduced - life imprisonment, which will be given only for crimes against life and cases specially laid down by law. Life imprisonment will not be applied to anyone under 18 years of age, women or men over the age of 65.

92. At the same time, the draft provides that the death penalty may be applied for crimes committed in a war situation.

93. At present, in particular exceptional cases, courts hand down the death sentence when they come to the conclusion that a person found guilty of committing a particularly serious crime presents an exceptional danger to society and there is no possibility of applying any other punishment to him. In recent years, persons who have committed premeditated murder with aggravating circumstances have been sentenced to death.

94. The number of persons sentenced to death was 143 in 1994, 191 in 1995, 167 in 1996 and 128 in 1997.

95. In 1998, 162 persons who had committed serious crimes were sentenced to death. The Supreme Council of Ukraine considered all 162 cases under the appeal procedure, leaving the sentence unchanged in 146 cases, commuting the death penalty to life imprisonment in 13 cases without re-evaluation of the crime, and quashing the sentence in 3 cases.

96. Under paragraph 12.11 of Resolution No. 190 (1995) of the Parliamentary Assembly of the Council of Europe concerning the accession of Ukraine to the Council of Europe, Ukraine is obliged to ratify Protocol No.6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which provides for abolition of the death penalty in peacetime and the introduction of a moratorium on the carrying out of death sentences.

97. It should be noted that no death sentences have in fact been carried out since 1997.

In the period under review, 75 persons sentenced to death were pardoned:

4 persons sentenced in 1994 (Decrees of the President of Ukraine of 1994, 1996 and 1997);

7 persons sentenced in 1995 (Decrees of the President of Ukraine of 1995, 1996, 1997 and 1998);

39 persons sentenced in 1996 (Decrees of the President of Ukraine of 1997, 1998 and 1999);

12 persons sentenced in 1997 (Decrees of the President of Ukraine of 1998 and 1999);

13 persons sentenced in 1998 (Decrees of the President of Ukraine of 1999).

98. The right to life is the inalienable right of every person. Despite the serious economic situation of many enterprises, the President of Ukraine, the Supreme Council and the Government are applying the maximum effort to ensure the right of employees to healthy and safe working conditions. During the period 1992-1995, the following Ukrainian Acts were brought into force:

Act on the Protection of Labour (October 1992);

Act on Fire Safety (December 1995);

Act on Ensuring the Sanitary and Epidemiological Welfare of the Population (February 1994);

Act on the Use of Nuclear Power and Radiation Safety (February 1995).

99. Administrative liability for violating the requirements of current legislation has been increased.

100. The measures adopted by the Government are helping to reduce the number of violations of the legal rights of employees and the level of industrial accidents and vocational illness.

101. Overall industrial accidents fell 2.3 times, and those with fatal results by 1.5 times, compared with 1993.

102. The level of overall industrial accidents in 1998 was 13 per cent lower than in 1997. Those with fatal results fell by 6 per cent.

103. Almost 6,000 women were released from hard and unsafe work.

104. Bodies of the State Labour Protection Inspectorate use coercive measures against employers who have not provided safe working conditions. State inspectors eliminated more than 2.1 million violations of safety regulations during checks in 1998. Fines for unsatisfactory protection of labour were imposed on 798 enterprises and directly on 4071 company directors.

105. As stated in the previous report, an entire set of laws is devoted to the protection of life and health.

106. These issues are also dealt with in the new Ukrainian Constitution. In particular, it is stated in article 27 that every person has the inalienable right to life. No one may be arbitrarily deprived of life. The duty of the State is to protect human life.

107. It is also stated in this article that everyone has the right to protect his life and health and the lives and health of other persons against unlawful encroachments.

108. In view of the fact that the existence of criminality is an objective reality, the State is compelled to wage an active battle against it, using the measures prescribed by law against guilty persons.

109. In the penal law currently in force in Ukraine, punishment is a particular form of reaction on the part of the State to criminal acts, a form of State coercion used by the court on behalf of the State against a person who has committed a crime. The essence of punishment lies in the fact that the convicted person is subjected to punishment for the criminal acts he has committed, through particular deprivations and restrictions.

110. As with any other punishment, the exceptional measure of the death penalty may be limited, in accordance with the norms of current legislation on penal procedure, both through the exhaustive list of criminal acts subject to it and by the category of persons to whom it may be applied.

111. The existence of this punishment at the present stage of the State's development is determined by the need for a fierce campaign against the most dangerous crimes.

112. Since the death penalty is an exceptional measure, it does not form part of the system of criminal punishments but may be used only for the commission of particularly serious crimes in cases specifically provided for in the Special Part of the Ukrainian Penal Code.

Application of the death penalty

113. Since the proclamation of Ukraine's independence, steps have been taken to limit the use of the death penalty. At the beginning of 1997 the Ukrainian Procurator's Office endorsed the draft Ukrainian Act on the introduction of amendments and additions to the Ukrainian Penal Code with respect to the application of the death penalty. This draft Act is being examined by the Supreme Council of Ukraine. On 5 May 1997 Ukraine, in fulfilment of its obligations to the Council of Europe, signed Protocol No. 6 to the European Convention on Human Rights, providing for the abolition of capital punishment in peacetime.

114. Punishment in the form of the death penalty is provided for in 22 articles of the Penal Code currently in force. Five of them apply to peacetime, the remainder relate to crimes for which an exceptional level of punishment is laid down if they are committed in time of war or a combat situation:

Articles providing for the death penalty in peacetime:

Art. 58	Attack on the life of a statesman
Art. 59	Attack on the life of a representative of a foreign State
Art. 60	Subversion
Art. 93	Premeditated murder with aggravating circumstances
Art. 190	Attack on the life of a militiaman, people's bodyguard or serviceman related to their work of protecting public order

Articles providing for the death penalty in time of war or a combat situation:

Art. 232 (c)	Insubordination during time of war or a combat situation
Art. 234 (c)	Resisting a superior or forcing him to violate his official duties
Art. 236 (b)	Using violence against a superior
Art. 241 (b)	Desertion
Art. 243 (b)	Refusal to perform military service through mutilation or other means
Art. 245 (c)	Premeditated destruction of or damage to military property
Art. 249 (f)	Violation of statutory guard duty regulations
Art. 251 (d)	Violation of regulations concerning the performance of military duty
Art. 254 (c)	Abuse by a military officer of his power or official position
Art. 254-2	Exceeding by a military officer of his power or official authority
Art. 254-3	Inactivity of military authorities
Art. 255 (a, d)	Handing over or leaving means of waging war to the enemy
Art. 256 (b)	Leaving a sinking military vessel
Art. 257	Wilful departure from the battlefield or refusal to use a weapon
Art. 258	Voluntarily giving oneself up as a prisoner

Art. 260	Pillaging
Art. 261	Violence against the population in an area of military activity.

115. It should be noted that each of the 22 articles lays down an alternative punishment: imprisonment for up to 15 years or a death sentence. The court decides in each specific case which of these sentences to hand down, taking into account all circumstances of the offence and the personality of the offender. The increase in the number of citizens' attacks against life in recent years has compelled courts to impose the death penalty when handing down sentences. Relatives and close friends who have suffered at the hands of the offender have a family right to see the offender punished in an inevitable, appropriate and just manner. Such thoughts act as a deterrent to most Ukrainian citizens.

116. Courts behave in an extremely responsible fashion when imposing the death penalty. Every sentence must be reviewed by the Supreme Court.

117. Judicial statistics show that the number of persons sentenced to death by the courts was as follows:

1996 - 167

1997 - 128

1998 - 142

118. All of these were found guilty of premeditated murder with aggravating circumstances (article 93 of the Ukrainian Penal Code).

119. Expressed as a percentage of all persons found guilty of murder, the figures were:

1996 - 18 per cent

1997 - 15 per cent

1998 - 13.6 per cent

120. Since there is no standard procedure for the preparation of quarterly statistics, it is not possible to give figures for the first quarter of 1999.

121. Sentences were carried out in January and February 1997 in 9 cases of persons who had been found guilty in 1995-96. No death sentences have been carried out since March 1997 (as a result of the moratorium declared by Ukraine on the implementation of death sentences).

122. As of 1 April, 399 such sentences had not been carried out on persons sentenced to death.

123. The following data relate to appeals heard by the Supreme Court of Ukraine concerning persons sentenced to death:

No.		1	1	1	Ik
1.	Death sentence commuted to 15 years' imprisonment by the Supreme Court	29	14	17	-
2.	Death sentence commuted to 20 years' imprisonment through clemency by President of Ukraine	19	24	2	21
3.	Number of sentences carried out in these cases	45	9	-	-

124. Under the Resolution on the Procedure for Granting Clemency to Persons Sentenced to Death by Courts in Ukraine, approved by the Decree of the President of Ukraine of 31 December 1991, persons sentenced to death may petition the President of Ukraine for clemency within seven days from the day on which they were handed a copy of the sentence or appeal verdict.

125. The administration of the isolation wing in which persons sentenced to death are held assists them in filing their petitions and ensures that they are dispatched promptly, and also notifies them of the results of the inquiry.

Article 7

126. Under article 28 of the Constitution, everyone has the right to respect of his dignity.

127. No one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment that violates his dignity.

128. No person shall be subjected to medical, scientific or other experiments without his free consent.

129. Everyone in Ukraine has the right to respect of his dignity. No one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No person may be subjected to medical, scientific or other experiments without his free consent.

130. Chapter III of the Ukrainian Penal Code provides for criminal liability for offences against the life, health, freedom and dignity of the individual.

131. The Ukrainian Correctional Labour Code stipulates that the purpose of carrying out punishment is not to cause physical suffering or to degrade human dignity. Bodies of the Procurator's Office monitor the observance of the legal situation of offenders and persons remanded in custody in accordance with the Ukrainian Act on the Procurator's Office of Ukraine and Order No.6 of the Procurator's Office of Ukraine of 21 May 1996 on the Organization of Supervision by the Procurator's Office of Compliance with Legislation on Penal Procedure.

Article 8

132. In March 1998, Article 124-1 providing for criminal liability for trafficking in people was added to the Ukrainian Penal Code. There were no cases of sentencing for this offence in 1998.

133. State policy on employment in Ukraine is based on the following principles:

> ensuring equal opportunities for all citizens, irrespective of origin, social and property status, racial or national origin, sex, age, political beliefs or attitude to religion, in the exercise of the right to the free choice of their type of activity in accordance with their abilities and vocational training, taking into account personal interests and social requirements;
>
> helping to promote efficient employment, the prevention of unemployment and the creation of new jobs and conditions for the development of entrepreneurship;
>
> coordinating activities in the sphere of employment with other areas of economic and social policy on the basis of State and regional employment programmes;
>
> cooperation among trade unions, employers' associations (unions), company owners, institutions and organizations or their authorized bodies in collaborating with State administrative bodies in the development, implementation and monitoring of measures to ensure employment among the population;
>
> international cooperation in settling employment issues, including the work of Ukrainian citizens abroad and of foreign citizens in Ukraine.

134. The equality of rights of all Ukrainian citizens is enshrined in articles 21 and 22 of the Ukrainian Labour Code. Equal rights in remuneration for the work of Ukrainian citizens is guaranteed by the Ukrainian Act on Remuneration for Work (article 21). These rights are exercised by workers through collective agreements based on work contracts.

135. The State provides additional guarantees of employment for specific categories of the population requiring social protection and unable to compete on the labour market on equal terms. These are: under article 5 of the Act of Ukraine on Employment, bodies of local authority, acting on the advice of employment centres, reserve up to 5 per cent of the total

number of vocational jobs at enterprises and organizations, regardless of their form of ownership, for citizens' work placement. When citizens are placed in a job through this system, the administration of the enterprise (organization, institution) does not have the right to refuse to accept them. The law stipulates that if a worker is refused a job by an enterprise (organization, institution), it shall be fined a sum 50 times the minimum wage laid down by law.

136. In pursuance of Ordinance No. 1591 of the Cabinet of Ministers of Ukraine on the Employment Programme for the Period 1997-2000, of 31 December 1996, annual Action Plans are prepared to implement the Programme: these lay down specific measures for creating a labour market, ensuring productive employment of the population, preventing mass unemployment as a result of structural changes in the economy and enhancing the social protection of sectors of the population that are unable to compete.

137. The crisis situation faced by the Ukrainian economy has necessitated compulsory dismissals from enterprises, institutions and organizations. Because of such dismissals on grounds of changes in the organization of production and labour, including the closure, reorganization or repositioning of an enterprise, institution or organization and staff reductions, 835,600 persons were added to the full labour market in 1997 and 1,115,500 in 1998, the corresponding figures for the fixed labour market being 613,300 and 734,400 persons respectively.

138. One of the elements forcing people to seek work is hidden unemployment, when able-bodied citizens are compelled to work an incomplete working day (week) or are placed on administrative leave. The number of such persons in 1998 was 2,178,000 and 2,793,400 respectively.

139. Other factors forcing people to seek concealed jobs are low wages and payment arrears. According to data compiled by the State Statistical Committee, the mean monthly wage of an average-level worker for Ukraine as a whole in 1998 was 153.49 hryvnas, or 62.6 United States dollars at the official rate of exchange. The average length of wage arrears (at 10 May 1999) was three months.

140. The Government of Ukraine is taking the necessary measures to eliminate the factors forcing people to seek work. Thus, under the 1999 Plan of Action to implement the Employment Programme for the period 1997-2000, measures are being carried out this year to introduce, from 1 January 2000, machinery to finance compensatory payments to workers dismissed under article 40, paragraph 1, of the Ukrainian Labour Code using resources from the State employment assistance fund, the main aim of which is to legalize hidden unemployment. The adoption of the Ukrainian Act on Universal Compulsory State Social Insurance Against Unemployment will also help to achieve this.

141. The laws of Ukraine, and in particular article 35, paragraph 4, of the Ukrainian Constitution and the Ukrainian Act on Alternative (Civilian) Service, as amended in 1999, recognize the right to refuse military service on religious and ethical grounds. Persons refusing military service on these grounds are permitted, under the new (1999) version of the Act, to perform alternative (civilian) service for a period of two years (as compared with three years

under the earlier version). The Act provides detailed regulation of issues pertaining to the labour relations of persons performing alternative service, in particular the signing of work contracts and the granting of leave.

142. Historically, slavery as such has not been present in Ukraine in its development over the centuries, nor have there been any preconditions to give rise to its emergence or existence. In addition, freedom of the individual is guaranteed in the Ukrainian Constitution.

143. Unlawful imprisonment is a criminal offence, and liability is laid down in article 123 of the Penal Code.

144. The use of forced labour is prohibited in Ukraine. Military or alternative (civilian) service, and also work or service carried out by a person in compliance with a verdict or other court decision, or in accordance with the laws on martial law or on a state of emergency, are not considered to be forced labour (article 43 of the Ukrainian Constitution).

145. The penal laws of Ukraine do not provide for hard labour as a punishment for offences committed.

146. Under article 49 of the Ukrainian Correctional Labour Code, everyone sentenced to deprivation of freedom is obliged to work. The administrations of correctional labour institutions must ensure that offenders are involved in socially useful work taking into account their ability to work and, where possible, their speciality.

147. Working conditions for prisoners are prescribed in accordance with current labour laws. Offenders' work is paid for according to quantity and quality under the norms and at the rates prevailing in the national economy.

148. The Supreme Council of Ukraine, which attaches particular importance to the role of the family and women in the political, economic, social, historical and cultural development of Ukraine, adopted, by its Resolution No. 475-XIV of 5 March 1999, the Declaration on General Principles of Ukrainian State Policy concerning the Family and Women, which lays down the principles and basic directions of Ukrainian State policy concerning the family and women. The Declaration's provisions serve as a basis for the further drafting of acts and other normative legal documents on matters relating to the status of the family and women.

149. The laws of Ukraine do not contain any provisions directly contrary to the United Nations Convention on the Elimination of All Forms of Discrimination against Women. However, the de jure proclamation of equal rights does not mean that women in fact enjoy these rights.

150. The negative trends associated with the transformation of Ukrainian society (the fall in output and, consequently, in the level of employment, rising unemployment, the reduction of allocations for social programmes, wage payment arrears, collapse of the network of communal services and the system of children's pre-school institutions, of educational institutions, culture and sport) render the status of women objectively more complex.

151. In March 1999, the General College, together with the Committee of the Supreme Council of Ukraine on Questions of Human Rights, National Minorities and Inter-national Relations, considered progress in the implementation and observance of laws on ensuring the rights of children and women in Ukraine in accordance with the United Nations Convention on the Rights of the Child and the United Nations Convention on the Elimination of All Forms of Discrimination against Women (the College adopted a resolution of 10 March 1999).

152. The process of improving legislation on questions relating to the protection of women against violence is continuing in Ukraine. A draft Ukrainian Act on the introduction of amendments and additions to the Ukrainian Penal Code and Code of Penal Procedure has been prepared by the Ukrainian State Committee on Family and Youth Affairs, together with a number of ministries, and sent to the Supreme Council of Ukraine. The draft provides for amendments and additions relating to penalties for coercion to participate in the creation of pornographic material and products containing propaganda for the cult of violence and cruelty.

153. Because of the spread of offences relating to trafficking in people, work is being done to organize the dissemination of information on the prevention of trafficking in women, and assistance is being provided to the International Organization for Migration in implementing the Information Campaign against Trafficking in Women from the Ukraine by organizing surveys among risk groups in 11 regions of Ukraine and seminars, and an international conference on problems in the prevention of trafficking in, and smuggling of, women. Ukraine has participated in drafting the National Programme to Prevent and Combat Trafficking in Women and Children and the National Programme to Combat Unlawful Migration, the adoption of which will help in the comprehensive solution of these problems.

154. Special importance attaches to the problem of violence against women in the family. A feeling of shame and traditional ideas prevent women from reporting such acts of violence. The shaping of public opinion regarding problems of violence in the family needs new approaches. The Ukrainian State Committee on Family and Youth Issues is cooperating with the United States non-governmental organization Project Harmony in a two-year joint programme to prevent all forms of violence, which was presented on 22 February 1999.

155. In May 1999, the Ukrainian State Committee on Family and Youth Affairs, together with the public organization 50/50 League of Women Voters, carried out a series of round tables and seminars on preventing violence, attended by representatives of State bodies and by leaders of Ukrainian women's public organizations and international organizations, in which problems of violence against women were examined in the context of the creation of a gender policy in Ukraine.

156. Work has begun on establishing a network of institutions for women and girls who have been the victims of violence, including violence in the family, as provided for in the National Plan of Action for the Period 1997-2000 concerning improvement of the status of women and enhancing their role in society, approved by Ordinance No. 993 of the Cabinet of Ministers of Ukraine of 8 September 1997. The first such institution was opened in Kyiv in the summer of 1998, and it is planned to open four more in 1999.

157. Educational work is being done to explain the laws of Ukraine and norms of international law regarding women's rights and interests. A series of seminars (at Dnepropetrovsk, Lviv, Chernigov and Kyiv) were held in 1998 as part of an overall project with the Ukrainian office of the International Labour Office entitled "Education and dissemination of information concerning the rights of working women in Ukraine".

158. The work of public women's organizations, alongside Government structures, helps in the implementation of programmes directed at improving the status of women and enhancing their role in society.

159. For example, the international organization Zhinocha Gromada is carrying out the following programmes: "Women for the introduction of family medicine in Ukraine", "Women for the sexual health of young people", "Women for a society without AIDS" and "A healthy diet for women and children".

160. The women's information centre "Lyubomira" is carrying out a programme entitled "Implementation in Ukraine of the rights of women with diminished physical capacity and women with a disabled child". The Association of Ukrainian Women is holding a series of instruction seminars for unemployed women. The 50/50 League of Women Voters is carrying out a programme entitled "Partnership between women and men in Ukraine - future policy".

161. In view of the fact that, although the question of eliminating discrimination against women has been virtually settled at the legislative level, discrimination exists in real life, including discrimination on certain objective grounds, it is incumbent on the Government to work out clear procedures for implementing the laws.

162. The requirements of article 8 are being fully met in the Frontier Forces of Ukraine.

Article 9

Paragraph 1

163. Article 29 of the Ukrainian Constitution stipulates that every person has the right to freedom and personal inviolability.

164. No one may be arrested or remanded in custody other than pursuant to a reasoned court decision and only on the grounds and in accordance with the procedure established by law.

165. In the event of an urgent necessity to prevent or stop a crime, bodies authorized by law may remand a person in custody as a temporary preventive measure, the reasonable grounds for which must be verified by a court within 72 hours. The detained person must be released immediately, if he has not been provided, within 72 hours from the moment of detention, with a reasoned court decision concerning his being remanded in custody.

166. Everyone arrested or detained must be informed without delay of the reasons for his arrest or detention, apprised of his rights, and from the moment of detention shall be given the opportunity personally to defend himself or to have the legal assistance of a defence lawyer.

167. Everyone detained has the right to challenge his detention in court at any time.

168. Relatives of an arrested or detained person must be informed immediately of his arrest or detention.

169. Article 14 of the Ukrainian Code of Penal Procedure stipulates that no one may be arrested otherwise than on the basis of a court decision or with the consent of the procurator.

170. The procurator must immediately release anyone who has been unlawfully deprived of his freedom or is being remanded in custody for longer than the term laid down by law or a court sentence.

Paragraph 2

171. Under article 107 of the Ukrainian Code of Penal Procedure, suspects are called in for questioning in compliance with the rules set out in articles 134-136, 145 and 146 of the Code.

172. If a suspect has been detained or held in custody, he must be questioned immediately or, if this is not possible, no later than 24 hours after detention. The presence of a defence lawyer is obligatory during such questioning, except in the cases provided for in article 46, paragraph 1, of the Code.

173. Before being questioned, the suspect must be informed of his rights, as set out in article 43-1 of the Code, and told what offence he is suspected of. This must be noted in the report on the questioning.

Paragraph 3

174. Article 106 of the Ukrainian Code of Penal Procedure lays down the procedure for the detention of a person suspected of an offence by a body of inquiry. A body of inquiry may detain a person suspected of committing an offence punishable by deprivation of freedom only if one of the following conditions is met:

(1) the person was caught in or shortly after the commission of the offence;

(2) witnesses, including victims, point directly to the person as having committed the offence;

(3) clear traces of the offence are found on the suspect, his clothes, with him or her, or in his residence.

175. If there are other data giving cause to suspect a person of committing an offence, he may be detained only if he has attempted to hide from justice or has no permanent residence, or if his identity has not been established.

176. The body of inquiry must prepare a report on each case of detention of a person suspected of committing an offence, specifying the grounds, reasons, day, hour, year, month and

place of the detention and the suspect's statements, and stating that the suspect has been informed, in accordance with the procedure laid down in article 21, second paragraph, of the Code, of his right to see a lawyer before the first questioning and for 24 hours to make written representations to the procurator and, at the procurator's request, to submit the material forming the basis for his detention. The detention report must be signed by the person who prepared it and by the detainee. The procurator must give his authorization for the detainee to be remanded in custody or released within 48 hours after being informed that a person has been detained.

177. If a detainee's residence is known, the body of inquiry must inform his family of his detention.

178. Article 149 of the Ukrainian Code of Penal Procedure states that preventive measures are:

a signed undertaking not to leave;

a personal guarantee;

a guarantee from a public organization or work collective;

bail;

remanding in custody;

supervision by the command of a military unit.

179. Article 150 of the Ukrainian Code of Penal Procedure lists the circumstances to be taken into account in applying preventive measures. In addition to the circumstances set out in article 148 of the Code, account must also be taken in applying preventive measures of the seriousness of the offence committed, the personality of the accused, and his age, health and family situation.

180. The procedure for revoking or changing preventive measures is also laid down in article 165 of the Code. This is done when there is no longer any need for such measures in general or for a measure applied previously.

181. Preventive measures are revoked or changed in accordance with a reasoned decision of the investigator, body of inquiry or procurator.

182. A copy of the decision by the investigator or body of inquiry must be sent to the procurator.

183. The procurator may invite the investigator or body of inquiry in writing to revoke the preventive measure, replace it by another or apply a preventive measure not selected by the investigator or body of inquiry. This invitation to the investigator or body of inquiry is obligatory and must be carried out immediately.

184. The investigator or body of inquiry may revoke or change a measure selected by the procurator or with his approval or by his direction only with the consent of the procurator.

185. A preventive measure applied by the court may be revoked or changed by the court and, if it transmits the case for investigation, also by the procurator or, with his consent, by the investigator or body of inquiry.

Paragraph 4

186. Articles 234-236 of the Ukrainian Code of Penal Procedure lay down the procedure for appealing against the actions of an investigator or procurator.

187. A written or oral appeal may be lodged with the procurator against the actions of an investigator either directly or through the investigator. Oral appeals are recorded in the report by the procurator or investigator. An investigator is obliged to transmit an appeal which he has received, together with his comments, to the procurator within 24 hours.

188. Within three days of receiving the appeal, the procurator is obliged to make a decision on it and communicate it to the appellant.

189. An appeal against the procurator's decision may be lodged with his superior.

190. An appeal against a procurator's permission for an arrest may be lodged with the regional (urban) court at the location of the office of the procurator who permitted the arrest by the person under arrest, or his defence lawyer or legal representative.

191. The appeal may be lodged directly or through the administration of the place of preliminary detention, which is obliged to send it to the appropriate court within 24 hours.

192. The judge must consider an appeal against a procurator's permission for arrest by himself. On receiving the appeal, he must request and himself examine the materials on the basis of which the permission for arrest was given.

193. The appeal must be considered within three days of the receipt of the materials on the basis of which permission for the arrest was given. If necessary, the court may hear the explanations of the person under arrest, or his defence lawyer or legal representative.

194. The judge must inform the procurator of the time spent considering the appeal. The procurator has the right to take part in the consideration of the appeal and put forward his arguments.

195. After considering the appeal, the judge may take one of the following decisions, depending on whether the requirements of articles 148, 150, 155, 156 and 157 of the Code were met when permission for the arrest was given:

to reject the appeal;

to revoke the permission for arrest.

196. If the judge revokes the decision to arrest, the person under arrest must be released from custody immediately and the person conducting the case is obliged to determine, within 24 hours of receiving the judge's decision, whether to apply another preventive measure.

197. The judge's decision is transmitted to the person conducting the case, the procurator who gave permission for the arrest and the person who lodged the appeal.

198. The judge's decision is not subject to appeal.

Paragraph 5

199. It should be noted that under article 1, paragraph 1, of the Ukrainian Act on the Procedure for Compensation for Damage Caused to a Citizen by Unlawful Actions of Bodies of Inquiry or Preliminary Investigation, the Procurator's Office or the Court, citizens of Ukraine are entitled to compensation for damage caused by: unlawful conviction, unlawful indictment, unlawful remand and detention in custody, conduct of an unlawful search during an investigation or court hearing of a criminal case, seizure, unlawful confiscation of property, unlawful removal from work (duties) and other procedural actions infringing citizens' rights; full compensation is paid for the damage caused irrespective of the guilt of officials of bodies of inquiry, the preliminary investigation, the Procurator's Office or the court.

200. Under article 3 of the Act, a citizen is compensated for (receives back) the following items in the cases specified in article 1:

earnings and other monetary income lost as a result of the unlawful actions;

property (including money, monetary deposits and interest on them, the citizen's share of the capital economic comradeship fund of which he was a member and income not received from that share, and other valuables) that has been confiscated or declared State income by the court, taken by bodies of inquiry or preliminary investigation or bodies engaged in operational investigative activities, and property that has been seized;

fines levied in implementation of a sentence of the court, court costs and other payments made by the citizen;

sums paid by the citizen for legal assistance extended to him;

moral damage.

201. Article 443 of the Ukrainian Civil Code establishes liability for the harm done by the unlawful acts of bodies of inquiry and preliminary investigation, the Procurator's Office and the courts. The damage done to a citizen as a result of unlawful conviction, unlawful trial on a criminal charge, unlawful remand in custody as a preventive measure, or unlawful arrest or correctional work imposed as an administrative punishment is fully compensated by the State, irrespective of the guilt of officials of bodies of inquiry, the preliminary investigation, the Procurator's Office or the court, in accordance with the procedure laid down by law.

202. The present Ukrainian Penal Code establishes criminal liability for deliberately unlawful arrest or detention (art. 73).

203. The adoption of the Ukrainian Constitution in 1996 marked the further legislative development of guarantees of the right of citizens to freedom and security of person. Article 29 of the Constitution stipulates that everyone has the right to freedom and personal inviolability. No one may be arrested or held in custody other than pursuant to a reasoned court decision and only on the grounds and in accordance with the procedure established by law.

204. The addition, in December 1992, of articles 236-3 and 236-4 to the Code of Penal Procedure, providing for the possibility of lodging an appeal with the court against a procurator's permission for arrest, was one of the most important steps towards ensuring people's freedom and security of person. These additions fully correspond to the constitutional provisions that everyone has the right to appeal against detention to a court at any time. This legal guarantee of court protection of the rights of suspects and convicted persons has been quite widely applied in recent years.

205. In 1994, the courts examined 2,919 such appeals, 988 of which were upheld; in 1997 there were 2,516 appeals, of which 897 (33.7 per cent) were upheld, and in 1998 there were 2,648 appeals, of which 877 (33.1 per cent) were upheld.

206. The courts decided to release 110 persons on bail in 1997, and 123 persons in 1998.

207. In 1997, the courts heard 3,875 appeals against the actions of investigative bodies, 1,976 of which were upheld. Of the 2,516 appeals lodged against decisions to apply a preventive measure, 897 were upheld.

208. In 1998 the courts issued 3,164 specific determinations that legality had been breached in the conduct of an inquiry or preliminary investigation.

209. The process of bringing national legislation on penal procedure fully into line with the Ukrainian Constitution and the norms of international law is now under way.

210. An individual's right to freedom and security of person is also guaranteed by the Ukrainian Constitution (art. 29). No one may be arrested or held in custody other than pursuant to a reasoned court decision and only on the grounds and in accordance with the procedure established by law.

211. These provisions are also contained in article 3 of the Penal Code, and they reflect the basic principles of penal law – the principle of legality and the principle of the individual's liability for his action if guilty. Paragraph 2 of this article states that no one may be found guilty of a crime or given a criminal punishment other than through the sentence of a court and in accordance with the law, and this corresponds to the provisions of article 9 of the Covenant.

212. Under the provisions of article 5 of the Ukrainian Code of Penal Procedure, no one may be brought to trial other than through the procedure established by law.

213. In the event of an urgent need to prevent or stop a crime, bodies authorized by law may hold a person in custody as a temporary preventive measure, the reasonable grounds for which shall be verified by a court within 72 hours. The detained person must be released immediately if he has not been provided, within 72 hours from the time of detention, with a reasoned court decision concerning the remand in custody.

214. Everyone arrested or detained must be informed without delay of the reasons for his arrest or detention, apprised of his rights, and from the moment of detention given the opportunity personally to defend himself or to have the legal assistance of a defence lawyer. Everyone detained has the right to appeal against his detention to a court at any time (art. 29 of the Constitution).

215. Suspects and defendants have a broad range of rights, set out in article 3 and 43-1 of the Code of Penal Procedure. These include, in particular, the rights to know what they are suspected of (charged with), to testify or refuse to do so, present evidence, to have a defence lawyer and an interview with him before the first questioning, to file a petition, and to appeal against the actions and decisions of the person conducting the inquiry, the investigator, the procurator, judges and the court.

216. A person under arrest, his defence lawyer and his legal representative have the right to appeal against the authorization given by a procurator for the arrest at any time during the consideration of the case before it is transmitted to the procurator with an indictment (art. 236-3 of the Code of Penal Procedure).

217. The court, the procurator, the investigator and the person conducting the inquiry are obliged to inform persons participating in the case of their rights and to ensure that these rights can be exercised.

218. In addition, where a case is closed because of the absence of any event or factors constituting a crime, or because of a failure to prove that the person concerned was involved in the commission of a crime, i.e. in the event of an acquittal, the body of inquiry, investigator, procurator and court must inform the person concerned of the procedure for restoring the rights which have been infringed and take the necessary measures to provide compensation for the damage caused as a result of unlawful conviction, indictment, detention or application of a preventive measure and in the event of a stay of execution of the penalty imposed when a penal law stipulating that the action is no longer punishable enters into force (art. 53-1 of the Code of Penal Procedure).

219. If the verdict of a court is overturned as unjust, the State must provide compensation for the material and moral damage caused by the groundless judgement.

Article 10

220. Under article 1 of the Ukrainian Correctional Labour Code, the purpose of Ukrainian correctional labour laws is to ensure the implementation of a criminal penalty in such a way that it is not only a punishment for committing a crime but also corrects and re-educates convicted persons in the spirit of an honest attitude to labour and the strict application of laws, prevents the commission of further crimes by the convicted person and by others, and helps to eradicate crime.

221. The implementation of a punishment is not intended to inflict physical suffering or be degrading to human dignity.

222. Under article 21 of the Code, minors and adults are separated in correctional labour institutions.

223. The fourth paragraph of this article stipulates that minors above the age of 17 who are firmly on the path of correction may be kept separate from other convicted minors. In addition, minors who are convicted of committing premeditated offences while serving their sentences and minors who systematically or maliciously break the rules in serving their sentences may be kept separate from other convicted minors.

224. Under article 1, paragraph 3, of the Ukrainian Act on Provisional Detention, persons remanded in custody in accordance with the purposes of penal procedure are held on the basis of the principle of unswerving observance of the Ukrainian Constitution, the requirements of the Universal Declaration of Human Rights and other international legal norms and standards relating to the treatment of detainees, and their detention is incompatible with any intentional acts which inflict physical or moral suffering or are degrading to human dignity.

225. Under article 8, second paragraph, of the Act, persons remanded in custody are accommodated in rooms meeting the requirements of isolation, in particular separation of minors and adults. In exceptional cases, in order to prevent any violation of the rules, and with the authorization of the procurator, minors' rooms may include a maximum of two adults who have been charged for the first time with criminal offences which are not serious; convicted persons are kept separate from persons in custody, including convicted persons sentenced by the court to another kind of regime in a correctional labour colony.

226. Persons remanded in custody in accordance with the purposes of penal procedure are held on the basis of the principle of unswerving observance of the Ukrainian Constitution and the requirements of the Universal Declaration of Human Rights and other international legal norms and standards relating to the treatment of detainees, and their detention is incompatible with any intentional acts which inflict physical or moral suffering or are degrading to human dignity, as indicated in the Ukrainian Act on Provisional Detention of 30 June 1993.

227. This Act provides for separate detention of various categories, including: men and women, minors and adults, those with previous convictions and those without, persons who have served a sentence involving deprivation of freedom and those who have not, especially dangerous recidivists and others, etc. (art. 8 of the Act).

228. It should also be pointed out that because of the country's serious economic situation, the holding of suspects and persons under arrest in places of temporary isolation does not always correspond to the generally accepted level, especially as regards everyday services.

229. These institutions were built before the proclamation of Ukrainian independence and in most cases do not meet generally accepted norms and standards.

230. As part of the process of reforming the Ukrainian correctional labour system, which started in 1991, the Ukrainian Act on the Introduction of Amendments and Additions to Ukrainian Legislative Acts concerning the Settlement of Certain Issues Relating to the Conditions in which Convicted Persons Serve their Sentences, of 27 July 1994, introduced changes in the Ukrainian Correctional Labour Code aimed at ensuring the rights of prisoners, their humane treatment and respect for human dignity.

231. In accordance with these changes, the children of convicted women are authorized to live at a children's home within the correctional labour colony up to the age of three. If the mother of a child who has reached the age of three has less than one year of her sentence to serve, the child may remain with his mother until her release.

232. In the cases referred to in article 35 of the Correctional Labour Code, convicted women may be granted the right to live outside the colony during the time they are excused from work because of pregnancy and childbirth, and also until the child reaches the age of three. Under article 408-3 of the Code, pregnant women and women with a child under the age of three may be allowed to defer their punishment.

233. The amount of money which convicted persons may use to obtain foodstuffs and basic essentials, and the number of parcels which they may receive, have been increased.

234. Punishment by depriving convicted persons of the right to see their families and friends has been removed from the list of disciplinary punishments.

235. By decision of the Constitutional Court of Ukraine of 26 February 1998, changes were introduced in the current legislation which have enabled detainees and convicted persons to enjoy their constitutional right to vote in elections for the President of Ukraine, deputies to the Supreme Council of Ukraine and deputies to bodies of local self-government.

236. During the period of reformation of the penal enforcement system, at the initiative of the Ukrainian Ministry of Internal Affairs and the State Department for Matters Relating to the Enforcement of Sentences, the President of Ukraine has issued a total of 11 decrees, the Supreme Council of Ukraine has adopted 19 legislative acts, and the Cabinet of Ministers has adopted 15 Ordinances on various matters relating to improvement of the system's operation.

237. In order to improve the conditions in which convicted persons and detainees are held, 12 correctional labour colonies with 9,000 places have been opened and room capacity in places of investigatory isolation has been increased by 10,200 places in recent years. The implementation of this programme is continuing.

238. In 1996, experts from the Council of Europe carried out a study of the correctional labour legislation of Ukraine and the manner in which it is applied in 22 institutions of the penal enforcement system in 8 Ukrainian oblasts. On the basis of the results, a report entitled "Assessment of the prison system of Ukraine" was prepared and published in January 1997; it contained recommendations for bringing the system into line with all-European standards which it has been agreed to meet.

239. Under the 1991 Ordinance of the Cabinet of Ministers of Ukraine on the Basic Directions of Reform of Ukrainian Penal Enforcement System and the commitments assumed by Ukraine upon entry into the Council of Europe, the place of the system for enforcing sentences in the structure of State bodies has been determined, and steps have been taken for the structural reform of the system of bodies enforcing sentences.

240. The Decree of the President of Ukraine of 22 April 1998 established the State Department of Ukraine for Matters relating to the Enforcement of Sentences, based on the Central Board for the Enforcement of Sentences of the Ukrainian Ministry of Internal Affairs. The Decree also laid down a number of measures to reform and regulate the operation of the system of enforcement of sentences.

241. The Decree of the President of Ukraine of 31 July 1998 approved the Statutes of the State Department of Ukraine for Matters Relating to the Enforcement of Sentences.

242. On 11 December 1998, the Supreme Council of Ukraine adopted the Ukrainian Act on the Introduction of Amendments to Certain Legislative Acts Resulting from the Establishment of the State Department of Ukraine for Matters Relating to the Enforcement of Sentences, which defined the legal competence of the Department to act independently.

243. By Decree of the President of Ukraine of 12 March 1999 the State Department of Ukraine for Matters Relating to the Enforcement of Sentences was completely removed from the aegis of the Ministry of Internal Affairs and it now functions as an independent central body of executive power directly implementing the single Government policy on the enforcement of sentences.

244. The supervision of convicted persons in institutions of the penal enforcement system has been transferred from officials within the Ministry of Internal Affairs to the State Department for Matters Relating to the Enforcement of Sentences, and it is planned to complete a gradual transfer to the Department of guard duties at correctional labour institutions.

245. Bodies and institutions for the enforcement of sentences adhere strictly to international conventions ratified by Ukraine, including the European Convention on Human Rights and its Protocols Nos. 1, 2, 4, 7 and 11, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, European Prison Rules, the

European Convention on the Transfer of Sentenced Persons, the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders and the European Convention on Extradition.

246. In February 1998 the European Committee for the Prevention of Torture inspected the institutions of the Ukrainian system for penal enforcement to monitor compliance by their administrations with the provisions of these conventions, and prepared recommendations for changing the conditions in which persons sentenced to detention are held, and these have been accepted by the Department.

247. The focus of education for convicted persons has been changed from mass forms of education to individual ones using psychological and pedagogic methods. Educational activities are based on programmes of individual work and group methods worked out for various categories of convicted persons.

248. Institutions in the system of penal enforcement have established psychological services, the main task of which is to provide psychological assistance to convicted persons during their sentences and to establish conditions of mutual trust between them and the staff.

249. In 1997 the number of posts for psychologists in institutions of the system of penal enforcement was virtually doubled. The staff of the socio-psychological service currently totals more than 2,000, of which 229 are psychologists. Centres for psycho-emotional relief have been established in all institutions.

250. The administrations of institutions of the system of penal enforcement promote the creation of conditions ensuring the right of convicted persons to freedom of religion. In 1996 the Central Board for the Enforcement of Sentences of the Ukrainian Ministry of Internal Affairs and the Ukrainian Orthodox Church, supported by Prison Fellowship International, held an international seminar on the organization of worship among persons serving a prison sentence. Prayer rooms, in which representatives of officially registered religions carry out spiritual work, have been set up in all institutions.

251. As provided by law, minor convicted persons are held separate from adults in educational labour colonies. To enable them to obtain secondary education and learn a trade, educational labour colonies operate general-education schools and vocational and technical colleges with an annual enrolment of more than 3,000 minor convicted persons.

252. In order to provide practical assistance in the social adaptation and rehabilitation of young people serving sentences in institutions of the penitentiary system and to organize support for convicted persons directed at the acquisition of particular skills, and also with a view to preparing young people for life in freedom and their re-socialization after release, centres of Social Support for Youth (SSY) carry out comprehensive activities in institutions of the penitentiary system (mainly educational labour colonies) in the Volynsk, Donetsk, Dnepropetrovsk, Zaporozhye, Lviv, Luhansk, Poltava, Rovenki, Kharkiv and Chernigov oblasts.

253. A system linking institutions for the enforcement of sentences with bodies concerned with internal affairs has been set up with the aim of systematically receiving information on persons who have committed offences and been sentenced to imprisonment.

254. In addition, work is done directly at colonies. Meetings and conversations with educators create the conditions for more useful work on their adaptation and rehabilitation after release. Individual socio-psychological assistance and information is also offered by correspondence. Specialists from the centres work with the families of convicted minors, carry out regular educational and correctional, consultative and preventive, and methodological work with educators and employees of the colonies and teaching staff, and help to decide questions relating to educators' supportive leisure time.

255. Attention is focused chiefly on the adaptation of young people after their release from places of deprivation of freedom (finding a job, material assistance, help in restoring lost family relations, legal issues, help with further education).

256. Educators are currently being transferred from correctional labour colonies and being placed under the patronage of SSY. Upon receiving the relevant information from a correctional labour colony, specialists from SSY centres investigate the material living conditions of the family to which a young person is returning after release and offer psychological and educational consultations with his parents.

257. Religious organizations are doing active work with a view to introducing a special system for detainees aimed at their correction and social re-education. For example, in 1998 the Union of Evangelical Christian Baptists of Ukraine established a "prison mission" which works actively among detainees in institutions of the central system in the Zaporozhye, Kyiv, Lugansk and Cherkasskoye oblasts.

Article 11

258. Under article 9 of the transitional provisions of the Ukrainian Constitution, the Procurator's Office continues to exercise, in accordance with the laws in force, the function of supervision over the observance and application of laws and the function of preliminary investigation, until the laws regulating the activity of State bodies with respect to monitoring of the observance of laws are put into force, and until the system of pre-trial investigation is established and the laws regulating its operation are put into effect.

259. Article 155 of the Ukrainian Code of Penal Procedure states that preventive remand in custody is applied in cases relating to offences punishable under the law by more than one year's imprisonment. In exceptional circumstances this preventive measure may be applied in cases punishable under the law by imprisonment for less than one year.

260. For persons convicted of committing the offences referred to in articles 56, 56-1, 57, 60, 62, 63, 69, 69-1, 71, 78, 80, 81 fourth paragraph, 82 third and fourth paragraphs, 83 third paragraph, 84 third paragraph, 86 second paragraph, 86-1, 93, 115-2 second paragraph, 117 third and fourth paragraphs, 118 second paragraph, 124-1, 141 third and fourth paragraphs, 142 third paragraph, 168 second and third paragraphs, 169 second paragraph, 170 second paragraph,

190-1, 217-2, 217-3 third paragraph, 229-1 second paragraph, 229-2 second and third paragraphs, 229-4, 229-5 second paragraph, 234 (c), 241 (b) and (d), 242, 245 (c), 257, 260 and 261 of the Ukrainian Penal Code, remand in custody may be applied on grounds of extreme risk of a crime.

261. Under article 32 of the Ukrainian Act on the Legal Status of Aliens, a foreigner may be expelled from Ukraine by decision of the bodies responsible for internal affairs or the Ukrainian Security Service if:

- his activities run counter to the interests of ensuring the security of Ukraine or the protection of public order;
- expulsion is necessary for the protection of public health and the defence of rights and legitimate interests of Ukrainian citizens;
- he has gravely infringed the laws on the legal status of aliens.

262. A foreigner must leave Ukrainian territory within the period specified in the expulsion order. Foreigners who refuse to leave are subject, with the authorization of the procurator's office, to detention and forcible expulsion. Detention is permitted only as long as is necessary for expulsion.

263. An appeal may be lodged against a decision to expel a foreigner from Ukraine. An appeal does not delay the implementation of an expulsion order.

264. The expulsion of foreigners is carried out by bodies responsible for internal affairs.

Article 12

265. The exercise of these rights may be restricted by law in the interests of national security, territorial integrity or public order, with the purpose of preventing disturbances or crimes, protecting the health of the population or the reputation or rights of other persons, preventing the publication of information received confidentially, or supporting the authority and impartiality of justice (art. 33, second paragraph, of the Ukrainian Constitution).

266. In implementation of the Legal and Organizational Preventive Measures (approved by Ordinance No. 1396 of the Cabinet of Ministers of 18 November 1996), the Ukrainian Ministry of Justice prepared a draft Ukrainian Act on a single State registry of physical persons and the procedure for their registration, which has been presented to the Cabinet of Ministers.

267. The purpose of this Act is to ensure that individuals enjoy their right to liberty of movement and the free choice of residence within the territory of Ukraine.

268. Under the draft Act, the institution of a residence permit (propiska) would be replaced by a system of registration.

269. Registration of physical persons can serve, firstly, to introduce a new system for keeping a record of individuals and, secondly, to abolish the system of restrictions on registration by place of residence, which was based on the housing laws.

270. The draft Ukrainian Act on passports provides that documentation concerning Ukrainian citizens is to be prepared by bodies of the Ministry of Justice. The transfer to a civilian ministry of the functions relating to people's documentation carried out by the passport service of bodies responsible for internal affairs results from the need for Ukraine to fulfil its obligations to the Council of Europe (Conclusion No. 190 (1995) PARE).

271. Under the Ukrainian Act on Bodies Responsible for the Registration of Civil Status Documents, such bodies register civil status documents concerning: birth, death, divorce, determination of paternity, change of name, forename and patronymic, etc.

272. Thus, the adoption of this Act will help to establish a single system for people's documentation within the system of judicial bodies.

273. The drafting of these Acts necessitated the preparation of a draft Ukrainian Act on the introduction of amendments and additions to certain legislative acts concerning questions of citizenship and the registration of individuals, which provides for the relevant amendments to the Ukrainian Acts on Citizenship of Ukraine, on the Legal Status of Aliens, on Refugees, on the Procedure for Leaving Ukraine and Entering Ukraine to be Followed by Ukrainian Citizens, and on Local Self-government.

274. The first legal and organizational step towards abolishing propiska as an institution that infringes the human right to freedom of movement was the adoption by the President of Ukraine of Decree No. 1201 of 31 October 1998 on the Department of Citizenship and Registration of Physical Persons. Under this Decree, a department of citizenship and registration of physical persons has been established within the system of judicial bodies with responsibility, in particular, for organizing the implementation of laws on matters of citizenship concerning persons resident in Ukraine and ensuring the implementation of laws regarding the registration of physical persons.

275. Everyone who is legally present on the territory of Ukraine is guaranteed – by current legislation and, in particular, by the Ukrainian Constitution, the Basic Law of the State - freedom of movement, free choice of place of residence, and the right freely to leave the territory of Ukraine, with the exception of the restrictions established by law.

276. A citizen of Ukraine may not be deprived of the right to return to Ukraine at any time.

277. Article 12, paragraph 1, is covered by article 33 of the Ukrainian Constitution:

> "Everyone who is legally present on the territory of Ukraine is guaranteed freedom of movement, free choice of place of residence, and the right freely to leave the territory of Ukraine, with the exception of the restrictions established by law.
>
> A citizen of Ukraine may not be deprived of the right to return to Ukraine at any time."

278. Article 12, paragraph 2, is covered by article 1 of the Ukrainian Act on the Procedure for Leaving Ukraine and Entering Ukraine to be Followed by Ukrainian Citizens:

> "A citizen of Ukraine has the right to leave Ukraine, except in the cases referred to in this Act, and to enter Ukraine.
>
> All the provisions of current legislation extend to citizens of Ukraine who have applied to leave Ukraine, and they have all the rights and duties laid down by law. No limitation of their civil, political, social, economic or other rights shall be permitted.
>
> A citizen of Ukraine cannot under any circumstances be limited in his right to enter Ukraine."

279. In addition, article 26 of the Ukrainian Act on the Legal Status of Aliens in Ukraine provides:

> "Foreigners may leave Ukraine if they have valid national passports or equivalent documents. To do so, they must obtain an exit visa in accordance with the procedure laid down, unless otherwise stipulated by the laws of Ukraine.
>
> A foreigner shall not be permitted to leave Ukraine if:
>
> - he is the subject of an investigation or the court is considering a criminal case against him, until the case is concluded;
> - he has been convicted of an offence, until he has served his sentence or been released;
> - his departure runs counter to the interests of ensuring security in Ukraine, until the circumstances preventing his departure cease to exist.
>
> A foreigner's departure from Ukraine may be delayed until he has fulfilled property obligations to physical and legal persons in Ukraine."

280. Article 12, paragraph 3, is covered by article 6 of the Ukrainian Act on the Procedure for Leaving Ukraine and Entering Ukraine to be Followed by Ukrainian Citizens:

> "A citizen of Ukraine may temporarily be refused a passport if:
>
> - he has knowledge of information constituting a State secret, until the end of the term stipulated in article 13 of this Act;
> - there are any outstanding alimony, contract or other obligations, until the obligations have been met or the dispute has been settled with the consent of both sides in cases established by law, or the obligation is met by a pledge, unless otherwise provided for in an international treaty of Ukraine;
> - criminal proceedings have been brought against him, until the case is concluded;

- he has been convicted of an offence, until he has served his sentence or been released;

- he refuses to fulfil an obligation imposed on him by a court decision, until he fulfils the obligation;

- he has knowingly given false information about himself, until the reasons for and the consequences of the false information are clarified;

- he is called up for periodic military service, until the issue of deferment is settled;

- a civil court action has been brought with respect to him, until the case is concluded;

- he has been declared by verdict of the court to be a dangerous recidivist or is under administrative supervision by the militia, until the conviction is quashed (lifted) or the supervision ceases."

281. The cases in which foreigners' departure from Ukraine may be limited are those listed above.

282. Article 12, paragraph 4, is covered by article 1 of the Ukrainian Act on the Procedure for Leaving Ukraine and Entering Ukraine to be Followed by Citizens of Ukraine, the provisions of which have been set out in the consideration of article 12, paragraph 2.

283. In ensuring the rights guaranteed by article 12, the State Committee is guided by the laws of Ukraine currently in force.

284. In order to make progress in the exercise of the rights set out in this article, the State Committee has prepared and sent to the Cabinet of Ministers of Ukraine a draft Ukrainian Act on the State service for Ukrainian frontier protection and immigration control. The main purpose of the draft is to transform Ukraine's frontier guards into a force protecting the law and having immigration functions.

285. The need to draw up the draft Act stems from the general warming of the political climate and the resultant reduction of the threat of military conflict or direct aggression on the State frontier of Ukraine, and from an analysis of the situation that has emerged in Ukraine with regard to protection of the State frontier and State regulation of migration processes, and the campaign against international terrorism, drug trafficking and illegal migration.

286. In our view, the following factors have had a negative effect on implementation of the provisions of the Covenant:

- the absence of any legal confirmation by treaty of the existing borders between independent Ukraine and the Russian Federation, Belarus, Moldova and Romania;

- the absence of international readmission treaties between Ukraine and countries of the Far East, South Asia and the Middle East whose citizens are attempting to enter Ukraine illegally;

- the intensification of criminal activity along the State frontier of Ukraine.

Article 13

287. The bases of and procedure for expelling foreign citizens from Ukrainian territory are set out in the Ukrainian Act on the Legal Status of Aliens.

288. The list of grounds for expulsion is limited by the Act.

289. A foreigner may be expelled from Ukraine by decision of Ukrainian bodies responsible for internal affairs or the Ukrainian Security Service if:

- his activities run counter to the interests of ensuring the security of Ukraine or the protection of public order;

- expulsion is necessary for the protection of public health and the defence of the rights and legitimate interests of Ukrainian citizens;

- he has gravely infringed the laws on the legal status of aliens.

290. The Ukrainian Act on the Legal Status of Aliens takes account of the provisions of article 13 of the International Covenant on Civil and Political Rights, which states that an alien lawfully in the territory of a State Party to the Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

291. Under article 1 of Protocol No. 7 to the European Convention on the Protection of Human Rights and Fundamental Freedoms, which was signed on 16 September 1963 and ratified by Ukraine on 17 July 1997, an alien lawfully in the territory of Ukraine may be expelled therefrom other than in pursuance of a decision reached in accordance with the law.

292. Article 13 is covered by article 32 of the Ukrainian Act on the Legal Status of Foreigners and paragraphs 42, 43, 44, 45 and 46 of the Rules concerning foreigners' departure from Ukraine, entry into Ukraine and transit through its territory, approved by Government resolution No. 1074-95.

293. The Act provides that a foreigner may be expelled from Ukraine by decision of Ukrainian bodies responsible for internal affairs or the Ukrainian Security Service if:

- his activities run counter to the interests of ensuring the security of Ukraine or the protection of public order;

- expulsion is necessary for the protection of public health and the defence of the rights and legitimate interests of Ukrainian citizens;

- he has gravely infringed the laws on the legal status of aliens.

294. A foreigner must leave Ukrainian territory within the period specified in the expulsion order. Foreigners who refuse to leave are subject, with the authorization of the procurator's office, to detention and forcible expulsion. Detention is permitted only as long as is necessary for expulsion.

295. An appeal may be lodged with a court against an expulsion order.

296. Ordinance No. 1074 of the Cabinet of Ministers of 29 December 1995 sets out in detail the procedure for expulsion.

Article 14

Paragraph 1

297. Under Article 55 of the Ukrainian Constitution, human and citizens' rights and freedoms are protected by the court.

298. Article 16 of the Ukrainian Code of Penal Procedure states that justice in criminal cases is administered on the basis of equality of citizens before the law and the court irrespective of origin, social or property status, racial or national affiliation, sex, education, language, attitude to religion, type and nature of employment, place of residence or other circumstances.

299. Article 6 of the Ukrainian Code of Civil Procedure stipulates that justice in civil cases is administered solely by the court on the basis of equality of citizens before the law and the court irrespective of origin, social or property status, racial or national affiliation, sex, education, language, attitude to religion, type and nature of employment, place of residence or other circumstances.

300. Under article 124 of the Ukrainian Constitution, justice in Ukraine is administered exclusively by the courts. The delegation of the functions of the courts, and also the appropriation of those functions by other bodies or officials, is not permitted.

301. The jurisdiction of the courts extends to all legal relations that arise in the State.

302. Judicial proceedings are performed by the Constitutional Court of Ukraine and courts of general jurisdiction.

303. The people participate directly in the administration of justice through people's assessors and jurors.

304. Judicial decisions are adopted by the courts in the name of Ukraine and their execution is mandatory throughout the entire territory of Ukraine.

305. Under article 20 of the Ukrainian Code of Penal Procedure, the hearing of cases is open in all courts except when this runs counter to the interests of protecting State secrets.

306. Closed court hearings may also be permitted by a reasoned decision of the court in cases relating to crimes committed by persons under the age of 16 and in other cases, with a view to preventing the disclosure of information about intimate aspects of the lives of persons taking part in the hearing.

307. Persons taking part in the hearing, representatives of public organizations and labour collectives, and persons participating in the hearing under article 161 of the Code, and where necessary also witnesses, experts and interpreters, may take part in closed court hearings.

308. Citizens under the age of 16 are not permitted to enter the courtroom unless they are persons taking part in the hearing or witnesses.

309. The rules of legal procedure are observed in closed court hearings. In all cases, court decisions are announced publicly, except for decisions concerning adoption in cases referred to in article 112 of the Ukrainian Marriage and Family Code.

Paragraph 2

310. Under article 62 of the Ukrainian Constitution, a person is presumed innocent of committing a crime and shall not be subjected to criminal punishment until his guilt is proved through legal procedure and established by a court verdict of guilty.

311. No one is obliged to prove his innocence of committing a crime.

312. An accusation may not be based on illegally obtained evidence as well as on assumptions. All doubts regarding proof of a person's guilt are interpreted in his favour.

313. In the event that a court verdict is revoked as unjust, the State provides compensation for the material and moral damage caused by the wrongful conviction.

314. Article 15, paragraph 2, of the Code of Penal Procedure states that no one may be found guilty of a crime and given a criminal punishment other than by sentence of the court and in accordance with the law.

Paragraph 3 (a)

315. Under article 19 of the Code of Penal Procedure, proceedings are held in Ukrainian or in the language of the majority population in the place concerned. Persons participating in the case who do not understand the language in which the proceedings are being held have the right to make a statements, testify, file a petition, be informed of all the evidence in the case, speak their own language in court and avail themselves of the services of an interpreter.

316. Documents of the investigation and the court are to be handed to the accused, in accordance with the procedure established by the Code.

317. Article 18 of the Ukrainian Act on Languages in Ukraine states that persons participating in civil and criminal cases who do not understand the language of the proceedings have the right to examine the evidence in the case, take part in the court hearings through an interpreter and speak their own language in court. Documents of the investigation and the court are handed to persons participating in the case in their own language or another language which they understand.

318. Article 128 of the Code of Penal Procedure stipulates that in cases referred to in article 19 of the Code the investigator appoints a translator for the investigation.

319. The translator must appear when summoned by the investigator and carry out the translation work assigned to him fully and accurately.

320. The investigator must explain the translator's duties to him and warn him that he bears criminal liability if he refuses to perform his duties or knowingly provides an inaccurate translation. The translator must sign a certificate accepting this liability.

Paragraph 3 (b)

321. Article 63, paragraph 2, of the Ukrainian Constitution states that a suspect, an accused or a defendant has the right to a defence.

322. Under article 43, second paragraph, of the Code of Penal Procedure, an accused has the right: to know what he is accused of; to testify or refuse to testify about the charge against him and reply to questions; to have a defence lawyer and an interview with him before the first hearing; to present evidence; to file petitions; to examine all the evidence in the case immediately following the end of the preliminary investigation or inquiry; to take part in court hearings in a court of first instance; to file objections; and to appeal against the actions and decisions of the person conducting the inquiry, the investigator, the procurator, judges and the court.

323. Under article 44, second paragraph, of the Code of Penal Procedure, an accused is permitted to take part in his case as soon as the charges are brought, or, where a person suspected of committing a crime has been detained or remanded in preventive custody, as soon as he is presented with a report on his detention or the decision to remand him in preventive custody, but no later than 24 hours from the moment of detention.

324. Article 47 of the Code of Penal Procedure lays down the procedure for designating a defence lawyer. A defence lawyer is appointed by a suspect, accused or defendant, his lawful representatives, relatives or other persons through an authorization or at the request of the suspect, accused or defendant. If, in the cases referred to in article 46, third paragraph, of the Code, a defence lawyer is not appointed by those persons, he is designated by the person conducting the inquiry, the investigator the court or the judge.

325. The same person may not act as defence lawyer for two or more suspects, accused or defendants when the interests of defending one of them conflict with the interests of defending the other.

326. A defence lawyer may be replaced only upon the petition, or with the consent, of the suspect, accused or defendant. In cases where the defence lawyer chosen by a suspect is unable to attend to participate in the case for 24 hours, or where the defence lawyer chosen by an accused or defendant is unable to attend for 72 hours, the person conducting the inquiry, investigator, court or judge then has the right to propose that the suspect, accused or defendant appoint another defence lawyer or may provide one for him. The responsibility for ensuring the participation of a defence lawyer in this case lies with the head of the bar association in the place where the case is being heard.

327. Where a defence lawyer has been designated to participate in an inquiry, preliminary investigation or court hearing by designation, and the suspect, accused or defendant is not required to pay for legal assistance because of insufficient means, the defence lawyer is paid by the State under the procedure established by the Cabinet of Ministers of Ukraine. In such cases, a convicted person may be required to reimburse such expenses to the State.

Paragraph 3 (d)

328. The Ukrainian Constitution stipulates that everyone has the right to legal assistance. Such assistance is provided free of charge in cases established by law. Everyone is free to choose the defender of his rights. In Ukraine, the legal profession acts to ensure the right to a defence against accusation and to provide legal assistance in deciding cases in courts and other State bodies (art. 59).

329. Article 21, first paragraph, of the Code of Penal Procedure states that a suspect, an accused or a defendant has the right to a defence; to take part in court hearings in a court of first instance; to file objections; and to appeal against the actions and decisions of the person conducting the inquiry, the investigator, the procurator, judges and the court.

330. Under article 45 of the Code, the participation of a defence lawyer is obligatory. The participation of a defence lawyer in the conduct of an inquiry, preliminary investigation and criminal hearing in a court of first instance is obligatory except in cases where the suspect, accused or defendant refuses a defence lawyer under the procedure laid down in article 46, second paragraph.

331. Article 46 of the Code provides that a suspect, accused or defendant has the right at any time during the conduct of the case to refuse a defence lawyer.

332. Such refusal is permitted only at the initiative of the suspect, accused or defendant and cannot stand in the way of the continued participation in the case of the State or public prosecutor or the defence lawyers of other suspects, accused or defendants.

333. When a defence lawyer is refused, the person conducting the inquiry or the investigator prepares a report, the court issues a resolution and the judge hands down a decision.

334. A defence lawyer may not be refused:

(1) in cases involving persons under the age of 18 suspected of or charged with committing a crime;

(2) in cases involving crimes committed by persons who, because of their physical or mental disabilities (dumb, deaf, blind and other persons), are unable to exercise their right to defend themselves;

(3) in cases involving persons who do not understand the language in which the proceedings are being heard;

(4) when the punishment provided for by the article under which the crime falls is the death penalty;

(5) in the hearing of cases concerning the use of medical coercion.

335. Under article 262 of the Code, cases are heard in courts of first instance in the presence of the defendant, whose attendance at court is obligatory.

336. A case may heard in the absence of the defendant only in exceptional cases:

(1) when the defendant is outside Ukraine and refuses to appear in court;

(2) when the defendant requests that a case which cannot be punished by deprivation of liberty should be heard in his absence. The court nevertheless has the right in such a case to declare the attendance of the defendant obligatory.

Paragraph 3 (e)

337. Article 263 of the Code of Penal Procedure lists the defendant's rights in a court proceedings. The defendant has the right in a court hearing:

- to file objections;
- to have a collegial hearing in cases established by law;
- to have a defence lawyer or defend his own interests;
- to file petitions and state his views on the petitions of other participants in the court hearing;
- to request the court to admit documents, call witnesses, designate commissions of experts and request other evidence;
- to testify on the substance of the case at any time during the court hearing or to refuse to testify and answer questions;

- to request the court to present the evidence in the case;
- to put questions to other defendants, witnesses, an expert, specialist, victim, citizen's plaintiff or citizen's respondent;
- to participate in the examination of material evidence, of the scene of the crime and of documents;
- to take part in court discussions in the absence of his defence lawyer;
- to have the last word in court.

Paragraph 3 (g)

338. Article 63, first paragraph, of the Ukrainian Constitution states that a person shall not bear responsibility for refusing to testify or to explain anything about himself, members of his family or close relatives in the degree determined by law.

339. Under articles 43 and 431 of the Code of Penal Procedure, the accused and suspects have the right to refuse to testify or answer questions.

Paragraph 4

340. Article 9 of the Code of Penal Procedure lays down the procedure for exempting minors from criminal liability through the application of compulsory educative measures. The procurator and the investigator, with the procurator's consent, have the right, on the grounds specified in article 51, third paragraph, of the Penal Code, to declare a criminal case against a minor closed. In this case, in compliance with the requirements of articles 438 and 440 of that Code, the charges are laid and, after the decision to declare the case closed is handed down, all the evidence is presented. The case is then sent to the procurator with a list of all those to be called by the court.

341. It should be noted that, under article 44 of the Code of Penal Procedure, in cases of socially dangerous acts committed by minors who have not attained the age of criminal liability, the defence lawyer is authorized to participate in the case from the moment that the minor and his parents or persons in loco parentis have been informed of the decision to declare the hearing closed and of the evidence, or where the minor has been placed in a processing centre, no later than 24 hours after his entry.

342. Article 168 of the Code of Penal Procedure stipulates that the questioning of a minor witness under the age of 14, or at the discretion of the investigator up to the age of 16, must take place in accordance with the rules set out in article 167 of the Code in the presence of a teacher and, where necessary, a doctor, and of the minor's parents or other legal representatives.

343. At the beginning of the questioning, the persons referred to above are informed of the duty to attend the questioning and of their right to make comments and, if authorized by the investigator, to put questions to the witness.

344. Questions put to the witness by the legal representatives, teacher or doctor, and their comments, are recorded in the report. The witness is entitled to reject questions, but such questions must be recorded in the report.

345. A witness under the age of 16 must be informed of his duty to tell only the truth, but is not warned of criminal liability for refusing to testify or giving knowingly false testimony.

346. Article 307 of the Code of Penal Procedure provides that the questioning of a minor witness under the age of 14, or at the discretion of the investigator up to the age of 16, must take place in accordance with the rules set out in article 168 of the Code.

347. At the end of the questioning, a minor witness must leave the courtroom, except in cases where the court, at its own initiative or on the petition of the procurator or other participants in the court hearing, declares the presence of the witness in the courtroom essential.

Paragraph 5

348. Article 347 of the Code of Penal Procedure provides for the right to appeal against a verdict and to file appeal submissions. A convicted person, his defence lawyer and legal representative, and the victim and his legal representative, are entitled to appeal against the verdict of the court.

349. The procurator and his deputies have the right, as part of their powers, to file a submission appealing against a verdict regardless of whether they took part in hearing of the case in a court of first instance. Assistant procurators and procurators of administrations and departments may file appeal submissions only in cases in which they participated in the hearing.

350. A person acquitted by the court may appeal against the reasons and grounds for the acquittal.

351. A verdict of the Supreme Court of Ukraine is not subject to appeal and the procurator may not grant leave to appeal against it.

352. Article 384 of the Code of Penal Procedure states that a review of a court's verdict, order and findings that have entered into legal force is permitted only on the objection of a procurator, president of the court or their deputies, who are granted this right by the laws of Ukraine.

The following have the right to file objections:

(1) the President of the Supreme Court of Ukraine, the Procurator General of Ukraine and their deputies, against the verdicts, orders and findings of any court in the territory of Ukraine except orders of the Plenary Assembly of the Supreme Court of Ukraine;

(2) the Presidents of the Supreme Court of the Republic of Crimea, the oblast court, the Kyiv and Sevastopol urban courts and their deputies, the procurators of the Republic of Crimea, oblast procurators, the procurators of the cities of Kyiv and

> Sevastopol, or procurators with the same status as them and deputies of those procurators, against the orders and findings of regional (urban) and interregional (district) courts and the findings on appeal of the collegiate court in criminal cases heard by the Supreme Court of the Republic of Crimea, the oblast court and the Kyiv and Sevastopol urban courts.

353. The President of a regional military court or armed forces court and a military procurator (with the rights of an oblast procurator) have the right to object to the verdict, order or finding of a garrison military court.

354. Amendments or additions may be made to an objection by the person who filed it. Amendments or additions may also be made to an objection received by a procurator by a superior procurator.

Paragraph 6

355. The Ukrainian Constitution stipulates that everyone has the right to compensation, at the expense of the State or bodies of local self-government, for material and moral damage caused by unlawful decisions, actions or omission of bodies of State power, bodies of local self-government, their officials and officers during the exercise of their authority (art. 56).

356. It should also be noted that, under article 1, paragraph 1, first subparagraph, of the Ukrainian Act on the Procedure for Compensation for Damage Caused to a Citizen by Unlawful Actions of Bodies of Inquiry or Preliminary Investigation, the Procurator's Office or the Court, compensation is paid for damage caused to citizens of Ukraine by: unlawful conviction, unlawful indictment, unlawful remand and detention in custody, conduct of an unlawful search during an investigation or court hearing of a criminal case, seizure, unlawful confiscation of property, unlawful removal from work (duties) and other procedural actions infringing citizens' rights. Full compensation is paid for the damage caused, irrespective of the guilt of officials of bodies of inquiry, the preliminary investigation, the Procurator's Office or the court.

357. Under article 3 (c), in the cases referred to in article 1 of the Act, a citizen is compensated (reimbursed) for:

- wages and other monetary income lost as a result of the unlawful actions;
- property (including money, monetary deposits and interest on them, the citizen's share of the statutory economic comradeship fund of which he was a member and income not received from that share, and other valuables) that has been confiscated or declared State income by the court, taken by bodies of inquiry or preliminary investigation or bodies engaged in operational investigative activities, and property that has been seized;
- fines levied in implementation of a court verdict, court costs and other payments made by the citizen;

- sums paid by the citizen for legal assistance extended to him;

- moral damage.

Paragraph 7

358. The Ukrainian Constitution stipulates that no one shall be tried twice for one and the same offence. The legal liability of a person is individual in nature (art. 61).

359. The equality of all participants in a trial before the law and the court is one of the constitutional principles of legal procedure set forth in articles 24 and 129 of the Ukrainian Constitution. The implementation of this principle is reflected in the laws of Ukraine currently in force and, principally, the procedural laws. These principles are also reflected and further developed in the drafts of new procedural codes that have been prepared and submitted for consideration to the Supreme Council of Ukraine.

360. There are no examples in Ukrainian judicial practice of any violation of the equality of citizens before the law and the court on grounds of race, colour, political, religious or other beliefs, sex, ethnic or social origin, property status, place of residence, language or other characteristics.

361. Ukrainian courts as a whole ensure the correct hearing of criminal cases, but the problem of efficiency in the hearings still has to be solved.

362. There has been a trend during the period under review for hearings to become longer. A total of 42,200 cases lasting longer than one month were heard in 1995 (20.8 per cent of the total), 50,700 in 1996 (26.1 per cent) and 53,500 in 1997 (28.2 per cent).

363. As practice shows, the most common reasons for a trial being delayed are the non-attendance at the hearing of victims and witnesses, the poor quality of the preliminary investigation and inadequate court funding.

364. Lengthy criminal court hearings also result from the increase in crime, the heavier workload of courts due to the expansion of their jurisdiction and other reasons beyond the courts' control.

365. Under the Ukrainian Constitution, the openness of trials is one of the fundamental principles of the administration of justice (art. 129, third paragraph, subparagraph 7).

366. The openness of the trial is of great importance in cases both of crime prevention and of any violation of legal requirements by the courts in hearing criminal cases.

367. As a result of the violation by bodies of the preliminary investigation of the requirements of article 22 of the Code of Penal Procedure, verdicts against 1627 persons were set aside and sent back for supplementary hearings in 1997, representing 28 per cent of the total number of judgements set aside. The figures for 1998 were 1,779 persons, or 26.1 per cent. In 1996, 25.3 per cent of the total number of verdicts quashed were set aside for these reasons.

368. The legality and validity of verdicts in appeal and supervisory proceedings was checked for every sixth criminal case concluded in 1997 and almost every fifth such case in 1998.

369. The results for appeal and supervision proceedings were as follows:

Verdicts set aside: 1996 – 5,372, 1997 – 5,822, 1998 – 6,781

Verdicts amended: 1996 – 4,997, 1997 – 4,994, 1998 – 4,813.

Paragraph 1

370. Under article 15 of the Ukrainian Code of Penal Procedure, justice in criminal cases is administered solely by the court. No one may be found guilty of committing a crime or given a criminal sentence except by the verdict of a court in accordance with the law.

371. Article 16 of the Ukrainian Code of Penal Procedure provides that justice in civil cases is administered solely by the court and on the basis of equality before the law and the court of all citizens irrespective of origin, social or property status, racial or national affiliation, sex, education, language, attitude to religion, type and nature of employment, place of residence or other circumstances.

372. Article 20 of the Code of Penal Procedure states that trials in all courts must be open and transparent, except in cases where this runs counter to the interests of protecting State secrets. Closed hearings are also permitted by a reasoned decision of the court in cases relating to crimes committed by persons under the age of 16 and in other cases, with a view to preventing the disclosure of information about intimate aspects of the lives of persons taking part in the hearing. The rules of legal procedure are observed in closed court hearings. In all cases, court decisions are announced publicly.

Paragraph 2

373. Article 3 of the Ukrainian Penal Code states that only a person who is guilty of committing a crime can be convicted and punished for it, that is, the person who has, purposely or carelessly, committed a socially dangerous act covered by penal law. No one may be found guilty of committing a crime and punished other than by verdict of the court and in accordance with the law.

374. Under article 2 of the Code of Penal Procedure, the aim of penal proceedings is the speedy and full discovery of crimes, conviction of guilty persons and ensuring the application of the law so that everyone who has committed a crime is brought to trial and no innocent person is punished.

375. Article 22 of the Code of Penal Procedure directly prohibits the court, procurator, investigator or person conducting the inquiry from shifting responsibility onto the accused to prove his innocence.

Paragraph 3

376. (a): Article 43-1, second paragraph, of the Code of Penal Procedure provides that a person suspected of committing a crime has the right to know what he is suspected of, while article 107 of the Code gives the body of inquiry direct responsibility for explaining his rights to the suspect and informing him of the crime he is suspected of. Article 19 of the Code states that persons participating in the case who do not understand the language in which the proceedings are being held have the right to make statements, testify, file a petition, be informed of all the evidence in the case, speak their own language in court and avail themselves of the services of an interpreter. Documents of the investigation and the court are to be handed to the accused, in accordance with the procedure established by the Code.

377. (b): Under articles 43 and 43-1 of the Code of Penal Procedure, a person accused (suspected) of committing a crime has the right to have a defence lawyer and the right to an interview with him before the first questioning. Penal law (art. 45 of the Code of Penal Procedure) also provides for obligatory participation by the defence lawyer in the conduct of the inquiry preceding the investigation and in the hearing of the case in the court of first instance, except for cases in which the suspect, accused or defendant refuses a defence lawyer under the procedure laid down in article 46 of that Code, which refers to the right of the suspect, accused or defendant to refuse a defence lawyer at any time during the proceedings, but such refusal is permitted only at his own initiative.

378. The law sets no time limits on the accused being informed of the results of the preliminary investigation. He may study the evidence in the case, in consultation with his lawyer, for as long as he needs to. Cases are known in practice of study of the evidence taking a year or longer.

379. (c): There is no possibility of any delay in the conduct of the inquiry and the preliminary investigation from the time that a person suspected of committing a crime is detained. The bodies of inquiry which detained the suspect have 24 hours from the time of detention to notify the procurator of this fact. Within 48 hours of receiving the notification of detention (art. 106 of the Code of Penal Procedure) the procurator must give his authorization for the suspect to be remanded in custody or release him. The inquiry must last no longer than 10 days (art. 108 of the Code of Penal Procedure). Article 113 of the Code requires the investigator to proceed immediately to the investigation in the case opened by or assigned to him.

380. In addition, article 29 guarantees a person immediate release if he is not given a reasoned decision by the court concerning his remand in custody within 72 hours.

381. Article 120 of the Code of Penal Procedure lays down specific limits on the length of the preliminary investigation. In general, the preliminary investigation in criminal cases may be concluded in two months. This includes the time between discovery of the case and its transmittal to the procurator with an indictment or decision to send the case to the court for consideration of the use of a coercive medical procedure or until the closure or cessation of the case. This deadline may be extended to up to three months by the regional prosecutor or a prosecutor of equal status when it is not possible to close the investigation earlier.

382. The time taken for an accused and his defence lawyer to examine the evidence in a criminal case is not counted in calculating the length of the preliminary investigation.

383. In particularly complex cases, the length of the preliminary investigation may be extended to up to six months by the oblast procurator or a procurator of equal status or his deputy, on the basis of a reasoned decision of the investigator.

384. Any further extension of the preliminary investigation can be authorized only in exceptional cases by the Procurator General of Ukraine or his deputy.

385. (d)-(g): Articles 21, 43, 43-1C and 47 of the Code of Penal Procedure set forth the rights of a person accused (suspected) of committing a crime which meet the requirements of these paragraphs of article 14 of the Covenant.

Paragraph 4

386. Article 10 of the Ukrainian Penal Code covers the liability of minors. Under its provisions, persons who are over the age of 16 at the time a crime was committed bear criminal liability.

387. Persons committing a crime between the ages of 14 and 16 bear criminal liability only for murder (arts. 93-98), attack upon the life of a judge, public health worker, member of a public organization for the protection of public order or serviceman (art. 190-1), wilfully causing bodily harm involving disruption of health (arts. 101-104, 106 first paragraph, and 189-4), rape (art. 117), theft (arts. 81, 86-1, 140, 223 and 229-2), larceny (arts. 82, 86-1, 141, 223 and 229-2), robbery with violence (arts. 86, 86-1, 142, 223, paragraph 2, and 229-2, paragraph 3), malicious or particularly malicious hooliganism (art. 206, paragraphs 2 and 3), damaging parts of main oil, gas and oil-product pipelines with aggravating circumstances (art. 78-1, paragraphs 2 and 3), wilful destruction of State and collective property or citizens' personal property involving disastrous consequences (arts. 89, paragraphs 2 and 3 and 145, paragraph 2) and wilful commission of acts liable to cause a railway accident (art. 78).

388. The court may apply compulsory educational measures, which do not constitute criminal punishment, to a person under the age of 18 who has committed a crime not presenting a great public danger, if it is acknowledged that expiation is possible without criminal punishment, and to a person who has committed a publicly dangerous act referred to in the Code before the age at which criminally liability applies.

389. Section 8 of the Code of Penal Procedure is devoted to procedure in cases involving minors. The articles in this section (432-447) govern the details of detention, questioning of minors, their indictment, court hearings and so forth.

Paragraph 5

390. Article 347 of the Code of Penal Procedure sets out the right of a convicted person, his defence lawyer or legal representative to lodge an appeal against the verdict of the court. The appeal must be lodged and an appeal statement presented within seven days of the announcement of the verdict.

391. A person acquitted by the court has the right to appeal against the reasons and grounds for the acquittal.

392. A verdict of the Supreme Court of Ukraine is not subject to appeal and the procurator may not grant leave to appeal against it.

Paragraph 6

393. Article 443 of the Ukrainian Civil Code stipulates liability for the harm done by the unlawful acts of bodies of inquiry and preliminary investigation, the Procurator's Office and the courts.

394. This article states that the harm done to a citizen as a result of unlawful conviction, unlawful trial on a criminal charge, unlawful preventive remand in custody as a preventive measure, or unlawful arrest or correctional work imposed as an administrative punishment must be fully compensated by the State, irrespective of the guilt of officials of bodies of inquiry or preliminary investigation, the Procurator's Office or the court, in accordance with the procedure laid down by law.

Paragraph 7

395. Article 9, paragraph 6, of the Code of Penal Procedure provides that a criminal case may not be brought, and a case already started must be closed, against a person in respect of whom a verdict on the same charge has already entered into force or a court decision to close the case for the same reason has been handed down.

Article 15

396. It should be noted that, under article 58 of the Ukrainian Constitution, laws and other normative legal acts have no retroactive force, except in cases where they mitigate or annul the responsibility of a person.

397. Under article 6, second paragraph, of the Ukrainian Penal Code, a law which abolishes punishment for an action or reduces the penalty for it has retroactive force, that is, is applicable from the moment it enters into force also to acts committed at the time it was passed.

398. During the period under review, the courts acquitted almost 1,000 persons every year.

399. Under the appeal and supervision procedures, the cases of 74 persons in 1996, 87 in 1997 and 65 in 1998 were closed because the events or the elements of a crime were absent or because the charge had not been proven.

400. The number of persons whose cases were sent back for a fresh court hearing because of unfounded acquittal was 54 in 1995, 179 in 1996, 191 in 1997 and 195 in 1998.

401. An analysis of appeal and supervisory court decisions shows that most verdicts are set aside, cases being terminated chiefly because of the absence of the elements of a crime in the actions of the convicted person.

402. In most cases, citizens are wrongly convicted as a result of an incorrect and often one-sided investigation of the facts of the case, when the charge ruled by the court to be proven is based on evidence of doubtful reliability.

403. Persons are sometimes wrongfully convicted when they are not guilty of committing the crime.

Article 16

404. The laws in force in Ukraine do not contain any provisions denying citizens, aliens and stateless persons within its jurisdiction status as persons before the law.

Article 17

405. Under article 32 of the Ukrainian Constitution, no one may be subjected to interference in his personal and family life, except in cases provided for by the Ukrainian Constitution.

406. Article 23 of the Constitution provides that every person has the right to free development of his personality if the rights and freedoms of other persons are not violated thereby, and has duties to the society in which the free and comprehensive development of his personality is ensured.

407. Article 31 of the Constitution stipulates that everyone is guaranteed privacy of correspondence, telephone conversations and telegraphic and other communications. Exceptions may be determined only by a court in cases established by law, with the purpose of preventing crime or ascertaining the truth in the course of the investigation of a criminal case, if it is not possible to obtain information by other means.

408. Under article 14-1 of the Ukrainian Code of Penal Procedure, citizens are guaranteed inviolability of their home. No one has the right to enter a home against the will of the persons living there without legal justification.

409. The personal life of citizens, correspondence, telephone conversations and telegraphic communications are protected by law.

410. Searches, confiscation, inspection of citizens' premises, seizure of correspondence and its confiscation at post and telegraph offices may only be effected on the grounds and in accordance with the procedure established by the Code.

411. In implementation of Instruction No. 17574/4 of the Cabinet of Ministers of Ukraine, of 19 June 1997, the Ukrainian Ministry of Justice has prepared a draft Ukrainian Act on the introduction of amendments and additions to certain Ukrainian laws proposing that provision should be made for a new procedure for authorizing entry into a person's home or other property, carrying out an inspection or search there, seizure of correspondence and telegraphic and other communications, their confiscation in communications establishments and units, wire-tapping and interception of communications, only by reasoned decision of a court.

412. Under article 27 of the Ukrainian Constitution, every person has the inalienable right to life.

413. No one shall be arbitrarily deprived of life. The duty of the State is to protect human life.

414. Everyone has the right to protect his life and health and the lives and health of others from unlawful encroachments.

415. Under article 28 of the Ukrainian Constitution, everyone has the right to respect of his dignity.

416. The relatives of an arrested or detained person must be immediately informed of his arrest or detention.

417. The penal legislation of Ukraine establish criminal liability for libel (art. 125), insult (art. 126), violation of the inviolability of citizens' homes (art. 130), and violation of the secrecy of mail, telephone conversations and telegraphic and other communications transmitted by communication media (art. 131).

418. The provisions of article 17 of the Covenant are given expression in articles 30-32 of the Ukrainian Constitution. Articles 130 and 131 of the Penal Code establish criminal liability for infringing the inviolability of citizens' homes and violating the privacy of correspondence, telephone conversations and other communications transmitted by communication media.

419. In 1994, two persons were convicted of these crimes under article 130 of the Penal Code and one person under article 131. In 1997 and again in 1998 one person was convicted.

420. Article 3 of the Ukrainian Constitution states that the human being, his life and health, honour and dignity, inviolability and security are recognised in Ukraine as the highest social value.

421. Everyone is guaranteed the right to compensation for the moral damage caused to a person by the collection, storage, use and dissemination of incorrect information about him, and to compensation for the moral damage caused to a convicted person when a verdict is set aside as wrongful.

422. From the time of the adoption of the first laws governing liability for causing moral damage, the scope of application of this norm has constantly been expanded. Changes in the law have been accompanied by changes in the practice of court hearings on compensation for damage caused and an increase in the number of cases in this category heard by the courts.

423. In 1998, 917 cases involving claims regarding the protection of honour and dignity were heard, or 263 (40.2 per cent) more than in 1997. The total sum claimed in compensation for moral damage was 771.6 million hryvnas, and the courts accepted claims for 8.2 million hryvnas.

424. Articles 14 and 14-1 of the Code of Penal Procedure guarantee citizens inviolability of the person and home and protection of their personal lives and of the privacy of their correspondence, telephone correspondence and telegraphic communications.

425. Under the provisions of these articles, no one may be arrested other than on the basis of a court decision or with the authorization of the procurator. The procurator must immediately release anyone who has unlawfully been deprived of his freedom or detained in custody longer than for the term provided for by law or by a court sentence.

426. Citizens are guaranteed inviolability of their homes. No one has the right to enter a home against the will of the persons living there without legal justification. The personal life of citizens, correspondence, telephone conversations and telegraphic communications are protected by law.

427. Searches, confiscation, inspection of citizens' premises, seizure of correspondence and its confiscation at post and telegraph offices may only be effected on the grounds and in accordance with the procedure established by the Code of Penal Procedure, in other words, with the authorization of the procurator or the court.

428. The laws of Ukraine guarantee citizens inviolability of their dwelling places. Entry into a dwelling place or other property of a person, and the examination or search thereof, is not permitted, other than pursuant to a reasoned court decision.

429. In urgent cases related to the preservation of human life and property or to the direct pursuit of persons suspected of committing a crime, another procedure established by law is possible for entry into a dwelling place or other property of a person, and for the examination and search thereof.

430. Everyone is guaranteed privacy of correspondence, telephone conversations and telegraphic and other communications. Exceptions may be determined only by a court in cases established by law, with the purpose of preventing crime or ascertaining the truth in the course of the investigation of a criminal case, if it is not possible to obtain information by other means (art. 31 of the Ukrainian Constitution).

431. The laws of Ukraine establish criminal liability for violating the privacy of correspondence, telephone conversations and telegraphic and other communications transmitted by communication media (art. 131 of the Penal Code).

432. Article 32 of the Ukrainian Constitution states that no one may be subjected to interference in his personal and family life, except in cases provided for by the Ukrainian Constitution.

433. The collection, storage, use and dissemination of confidential information about a person without his consent is not permitted, except in cases established by law, and only in the interests of national security, economic welfare and human rights.

434. Everyone is guaranteed judicial protection of the right to rectify incorrect information about himself and members of his family, and of the right to demand that any type of information be expunged, and also the right to compensation for material and moral damage caused by the collection, storage, use and dissemination of such incorrect information (art. 32 of the Constitution).

Article 18

435. Under article 34 of the Ukrainian Constitution, everyone is guaranteed the right to freedom of thought and speech, and to the free expression of his views and beliefs. Everyone has the right freely to collect, store, use and disseminate information by oral, written or other means of his choice.

436. The exercise of these rights may be restricted by law in the interests of national security, territorial integrity or public order, with the purpose of preventing disturbances or crimes, protecting the health of the population, the reputation or rights of other persons, preventing the publication of information received confidentially, or supporting the authority and impartiality of justice.

437. One of the guarantees of free celebration of religious rites is the establishment of criminal liability for preventing the celebration of religious rites (art. 139 of the Penal Code).

Paragraph 1

438. Under article 34, first paragraph, of the Ukrainian Constitution, everyone is guaranteed the right to freedom of thought and speech.

439. In addition, the draft Ukrainian Act on the introduction of amendments and additions to the Ukrainian Act on Freedom of Conscience and Religious Organizations (currently before the Supreme Council of Ukraine) stipulates that the aim of the Act is to guarantee that the right of everyone in Ukraine to freedom of thought and religion is implemented; to ensure the equality and protection of the rights and legitimate interests of every person irrespective of his attitude to religion, in accordance with the Ukrainian Constitution, the European Convention on Human Rights and other international treaties which the Supreme Council of Ukraine has recognized as binding; and to promote the establishment of churches and religious organizations in accordance with their internal statutes and constitutional procedures in Ukraine.

Paragraph 2

440. Under article 3, second paragraph, of the Ukrainian Act on Freedom of Conscience and Religious Organizations, no one may establish compulsory beliefs or personal philosophies. No coercion is permitted in a citizen's determination of his attitude to religion, profession of a religion or refusal to profess a religion, participation or non-participation in religious services, religious rites and ceremonies and religious education.

Paragraph 3

441. Article 35, second paragraph, of the Ukrainian Constitution provides that the exercise of the right to a personal philosophy and profession of faith may be restricted by law only in the interests of protecting public order, the health and morality of the population, or protecting the rights and freedoms of other persons.

Paragraph 4

442. Under article 3, third paragraph, of the Ukrainian Act on Freedom of Conscience and Religious Organizations, parents or persons in loco parentis have the right, by common consent, to educate their children in accordance with their own beliefs and attitude to religion.

443. During the period under review, the process of harmonization of State-church relations and democratization of the religious life of all faiths officially functioning in the territory of Ukraine continued.

444. As of 1 January 1999, there were 80 faiths, trends and schools of thought in Ukraine, representing a total of 21,134 congregations, whereas statistics show that on 1 May 1994 there were 69 churches and other religious establishments, with 14,973 congregations in all. Over the period under review, therefore, the overall increase in the number of congregations was 28.1 per cent. The strongest now are the Ukrainian Orthodox Church (7,996 congregations), the Ukrainian Greek Catholic Church (3,212 congregations), the Ukrainian Orthodox Church - Kyiv Patriarchate (2,187 congregations), the All-Ukrainian Union of Associations of Evangelical Christian Baptists (1,781 congregations) and the Ukrainian Independent Orthodox Church (1,026 congregations).

445. The number of religious congregations among national minorities (excluding Roman Catholic congregations) rose sharply over the period under review and as of 1 January 1999 totalled 560 associations of believers of 11 faiths. Muslims now account for half of these congregations: they totalled 281 on 1 January 1999 and have risen by 249 since 1992, mainly in Crimea. Next come Jews (102, or 62 more than in 1992), Reform (Hungarian Church) (10; 9) and the German Lutheran Church (36; 31).

446. The increase in the number of congregations among national minorities reflects the Government's establishment of conditions conducive to the development of these minorities, in accordance with the obligations assumed by Ukraine under the Framework Convention for the

Protection of National Minorities, article 5 of which lays down the obligation of States Parties to promote the conditions necessary for persons belonging to national minorities to maintain and develop their identity and, in particular, their religion.

447. The country's political leadership is striving to implement the constitutional principle of the equality of all religions and religious organizations before the law. Information campaigns are being run among clergy and believers with a view to eradicating, in certain religious circles and in the minds of believers, a complex of religious intolerance, superiority over persons of other faiths, and the wish to use State structures in their natural endeavour to exert areas of influence among the country's population.

448. At the same time, there is still an urgent need to rehabilitate the church as a public institution which suffered under the totalitarian regime. The President of Ukraine, L.D. Kuchma, in his statement of 11 June 1999, unconditionally condemned the policy of coercion with regard to religion, the church and believers. Practical steps have been taken to compensate for the damage caused to churches and congregations in recent decades.

449. The juridical bases for implementing the right to freedom of conscience are article 35 of the Ukrainian Constitution of 1996 and the Ukrainian Act on Freedom of Conscience and Religious Organizations of 1991.

450. No changes which might strengthen the State's position vis-à-vis religion and the church were made to the above-mentioned normative legal acts during the period under review. On the contrary, in view of the positive changes in the religious situation of Ukraine and the obligations assumed by Ukraine under multilateral and bilateral international treaties concluded by it during the period under review, as well as the advisory participation of religious centres and organizations, ways are being sought for the further democratization of State-church relations.

451. It is this aspect which is reflected in the new draft Ukrainian Act on the introduction of amendments to the Ukrainian Act on Freedom of Conscience and Religious Organizations, which is now before the Supreme Council of Ukraine.

452. No normative acts establishing liability for infringing laws regarding the separation of church from State and school from church were adopted during the period under review.

453. The right to freedom of conscience enshrined in article 35 of the Ukrainian Constitution and article 3 of the Ukrainian Act on Freedom of Conscience and Religious Organizations is ensured, inter alia, by the guarantee of the equality of citizens before the law and their equal rights in all spheres of economic, political, social and cultural life, irrespective of their attitude to religion, and by the right to replace military service with alternative (non-military) service on grounds of beliefs.

454. The Ukrainian Act on Alternative (Civilian) Service was adopted on 12 December 1991, with a view to ensuring the effective realization of this right. The Act gave citizens of Ukraine belonging to religious organizations operating in accordance with the law whose tenets forbid the use of arms the right to perform alternative (civilian) service.

455. These legal provisions were followed up in article 35 of the Ukrainian Constitution of 1996, which, at the highest legislative level, guarantees the right to replace military service with alternative service if it runs counter to citizens' religious beliefs.

456. However, since the Act of 1992 was in fact contrary to the new Constitution of 1996 and the requirements of the Universal Declaration of Human Rights of 1948, which enshrined the principle of equality, a new version of the Ukrainian Act on Alternative (Civilian) Service was adopted on 18 February 1999. Provisions were introduced and wording employed in this version aimed at eliminating these contradictions. For example, the length of alternative service (art. 6) was reduced from three to two years; the concept of "avoidance of alternative service" has been defined and an exhaustive list drawn up of acts for which a decision to call a person up for alternative service can be revoked; article 11 contains an exhaustive list of circumstances in which a call-up for alternative service can be renewed; and issues relating to the labour relations of citizens performing alternative service are regulated in greater detail.

457. The situation regarding religion and education continues to develop in two main directions: the introduction of new courses on the history of religion in Ukrainian secondary and higher educational establishments, and the expansion of the network of ecclesiastical educational establishments.

458. Thus, the study of "Religion", to learn about the history of religion and the tenets of the world's major religions, is compulsory in all Ukrainian higher educational establishments.

459. The network of ecclesiastical educational establishments is expanding all the time. Thus, their total number rose from 49 in 1994 to 94 on 1 January 1999. The broadest networks are those of the Evangelical Christian Baptists (20, against 11 in 1994), the Ukrainian Orthodox Church (14 academies and seminars against 9 in 1994), the Ukrainian Orthodox Church – Kiev Patriarchate (13 against 9 in 1994), Christians of Evangelical Faith (11 against 4 in 1994), and the Ukrainian Greek Catholic Church (10 against 8 in 1994).

460. In exercise of their right openly to express and freely to propagate religious beliefs and their faith, Ukrainian religious organizations undertake systematic campaigns of religious information in the mass media, radio and television. The legislative basis for the exercise of these rights is the principle of equality of religions before the law, enshrined in article 35 of the Ukrainian Constitution, and the fundamental provisions of State policy on religion and the church, as set out in the Ukrainian Act on Freedom of Conscience and Religious Organizations, which include equality of rights and opportunities for all religious organizations without exception as the basis of social justice, equality of all religions, faiths and religious organizations before the law, and the creation of conditions enabling religious organizations to participate in public life and make use of the mass media.

461. For example, Christian issues are dealt with on the channels of the National Radio and Television Company in the weekly religious education programmes "Oranta", "Let's Open the Bible", and "The Orthodox Calendar". Children and young people are told about basic Christian faith in the regular programme "The Superbook Club".

462. The State television channel broadcasts the main religious services of the leading faiths: Orthodox (including, in turn, services of the Ukrainian Orthodox Church, the Ukrainian Orthodox Church – Kyiv Patriarchate, the Ukrainian Independent Orthodox Church and the Ukrainian Greek Catholic Church), Catholic and Muslim. This is another expression of the equal rights and opportunities of religious organizations in the implementation of their right openly to express and freely to propagate religious beliefs and their faith.

463. A considerable number of ecclesiastical, church history, theological and religious art books and magazines are freely published and distributed. This activity has particularly intensified on the eve of the two thousandth anniversary of the birth of Christ.

464. Celebration of the major orthodox religious festivals, which have been declared official holidays, is an integral part of the country's cultural life. All faiths have the right to mark their own religious holidays when they occur.

465. The proclamation of Ukrainian independence placed religious organizations in a favourable situation, helping the development of their international relations with co-religionists abroad. This is in accordance not only with the norms of Ukrainian national legislation, including the Ukrainian Act on Freedom of Conscience and Religious Organizations, but also with the provisions of the European Convention on the Protection of Human Rights and Fundamental Freedoms of 1950 and the International Covenant on Civil and Political Rights of 1966.

466. Thus, in 1998 alone, Christian faiths in Ukraine took part in the work of a number of authoritative international forums and meetings, including the twelfth international "Peoples and Religions" meeting in Bucharest, the ecclesiastical and ecological conference in the Czech Orthodox Religious Academy, and the international conference "Reconciliation in Europe: the task of churches in Ukraine, Belarus, Poland and Germany". In addition, a delegation of the All -Ukrainian Union of Evangelical Christian Baptists took part in the work of the conference entitled "Holy Ukraine" in the United States, and the Union of Christians of Evangelical Faith participated in the work of missionary conferences in Sweden and Finland.

467. More than 450 foreign citizens and 23 countries participated, in turn, in meetings, congresses and conferences of Christian religious organizations in Ukraine. The General Council of the European Baptist Federation, which was attended by representatives of 37 countries, was held in Kyiv in September 1998.

468. Ukrainian faiths carried out various spiritual, educational and humanitarian programmes in cooperation with religious centres abroad. This cooperation includes pilgrimages of Ukrainian citizens abroad, in particular to Mecca and Medina, and of foreign citizens to Ukraine, in particular of Breslov Hassidic Jews from many countries to the grave of Rabbi Nachman in Uman.

469. Ukrainian laws currently in force retain legislative limitations on the freedom of religious propaganda and activity connected with the need to ensure national security, preserve public order, health and morality, and ensure the basic rights and freedoms of other citizens. The most general provisions in this sphere are contained in article 35 of the Ukrainian Constitution, which has been made more specific in other Ukrainian legislative acts.

470. It is from these standpoints that the problem of religious cults, which is of considerable complexity so far as juridical description is concerned, should be viewed. On the one hand, some of them violate the human rights guaranteed by the Constitution, while on the other their adherents voluntarily observe principles and norms which in fact restrict their freedom. In the end, the application of the law to these neo-religions is impossible without certain infringements of the principles of freedom of religion, meetings and associations which are essential attributes of a democratic society and are protected by international law. The destructive influence of a religious community on an individual must be confirmed by an expert medico-psychological examination. Current Ukrainian laws, however, provide for the possibility of such an investigation only with the consent of the person concerned, and this is virtually impossible to obtain from adherents of neo-religions.

471. A substantial contribution was made during the period under review to the development of the legislative basis for State-church relations. A number of draft Acts aimed at considerably improving relations between the State and the church and ensuring constitutional guarantees of freedom of conscience have been drafted, taking into account the provisions of the Ukrainian Constitution of 1996 and the recommendations of the State Interdepartmental Commission on Incorporation of the Norms and Standards of the Council of Europe into Ukrainian Legislation. However, in view of the fact that these draft Acts had not been considered by the preceding parliament, they were included in a single draft Ukrainian Act on the introduction of amendments and additions to the Ukrainian Act on Freedom of Conscience and Religious Organizations, which has been agreed with 11 ministries, supported by the leading Ukrainian faiths and duly transmitted by the Cabinet of Ministers of Ukraine for consideration by the Supreme Council of Ukraine.

472. Work is proceeding in many areas to strengthen the positive trend towards reducing breaches of the law on religious grounds. A substantial role in this has been played by the work of the interdepartmental Coordinating Council on Questions of Neutralizing Negative Phenomena in the Religious Environment, which operates under the aegis of the Ukrainian State Committee for Religious Affairs.

473. The situation of religion in Ukraine, which is marked by confessional pluralism and a society in transition, remains one of conflict, making the normal development of State-church and inter-church relations more complex.

474. Internal divisions within orthodoxy continue to be one of the main destabilizing factors in religious and church life. Since the split in the orthodox church, referred to in the previous report, there have been no essential positive changes in mutual relations between its three branches (the Ukrainian Orthodox Church, the Ukrainian Orthodox Church – Kyiv Patriarchate and the Ukrainian Independent Orthodox Church). As in the past, heated debate continues in this faith over the priority right of each individual church to be recognized as the rightful canonical

recipient of the historical traditions of the orthodox church and its role in the spiritual, moral and cultural development of the Ukrainian nation. The continuing political discord in Ukraine and the efforts of party leaders to gain the support of the church in their confrontation with their opponents, and the current unofficial political regionalization of the country, mean that the resolution of the problem of church unity in orthodoxy is closely bound up with the normalization not only of the religious, but also of the political, situation in Ukraine. In this context, the question of the depoliticization of church life is as urgent as ever.

475. The extent to which religious organizations have places of worship remains one of the problems of religion in Ukraine. In general, it can be seen that the number of temples is not commensurate with the growth rates of the religious network.

476. The laws of Ukraine currently in force, and in particular the Ukrainian Act on Freedom of Conscience and Religious Organizations, provide for three main ways of solving this problem: enabling religious organizations to use places of worship (premises and property) free of charge, transferring ownership of these premises and property to religious organizations, and their use in turn by two or more religious communities by mutual consent. About 3,300 temples and about 200 monasteries have been handed over to believers under these provisions since March 1992.

477. However, at a time when one fifth of religious communities in Ukraine do not have their own or permanent premises in which to hold their services, the need to improve current legislation in this sphere is becoming increasingly urgent. The Ukrainian State Committee on Religious Affairs has therefore put before the Cabinet of Ministers of Ukraine draft amendments and additions to the Ukrainian Act on Freedom of Conscience and Religious Organizations with the aim of refining the legal procedures for gradual restitution (transfer) to religious organizations not only of their former places of worship but of all requisitioned church property.

478. These initiatives are directly associated with the creation of the proper conditions for implementing the right to freedom of conscience, which includes, inter alia, the right to profess one's faith, individually or together with others, in performing services, religious and other ceremonies, etc. This right is ensured in turn by rights to the basis and content of places of worship and religious meetings and places of pilgrimage, and to the equipment and restoration of the church in accordance with its own hierarchical and institutional structure. The establishment of favourable conditions for the implementation of these rights corresponds to the obligations assumed by Ukraine under article 18 of the International Covenant on Civil and Political Rights.

479. As of 1 January 1999, about 559 non-traditional religious organizations were registered in Ukraine. The most widespread among them is the neo-Christian religious tendency (including the Church of the Transfigured Mother of God (Church of Our Lady), the Church of Christ, the Church of the Prophecies of God in Ukraine, the Church of the Full Gospel, the Church of the Living Christ and the Church of Jesus Christ of Latter-Day Saints).

480. A number of non-traditional faiths (the Great White Brotherhood, the Church of Our Lady, the International Church of Christ – Boston Movement, the Church of Unity, the Church of Scientology, "Transcendental Meditation" and others) violate the basic human rights and freedoms guaranteed by the Ukrainian Constitution. In particular, the harsh hierarchical and

authoritarian structure of these associations not only runs counter to generally accepted democratic values but also subordinates their members to the absolute power of leaders through, among other things, threats, blackmail and coercion.

481. The Ukrainian Academy of Pedagogical Sciences' Institute of Psychology and the Ukrainian Scientific Research Institute of Social and Legal Psychiatry have found that these organizations use coercion to limit their members' right to education, labour and the use of mass media, thereby contravening the provisions of articles 13, 6 and 15 of the International Covenant on Economic, Social and Cultural Rights, as well as the corresponding provisions of the Ukrainian Constitution, and force their members to endure hunger and not to use the products and medicines needed by the human organism, leading to physical and mental exhaustion and illness. These acts contravene the relevant provisions of articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights of 1966 and the corresponding provisions of the Ukrainian Constitution.

482. It should, however, be noted that the problem of the judicial description of the activities of destructive cults is an extremely complex one. On the one hand, they violate the human rights guaranteed by the Ukrainian Constitution, in particular the right to education, the preservation of health and medical assistance, etc., while on the other hand their adherents voluntarily observe norms and principles within the organization which appear from the outside to infringe the freedoms. In this case, however, factors limiting the realization of these rights such as national (State) security, the preservation of public health, public order, and social morality, which may also limit the right of members of destructive non-traditional religious organizations to profess a faith, should not be forgotten. The limitations permitted in such cases are listed in article 35, second paragraph, of the Constitution.

483. Religious centres abroad have a marked influence on the religious situation in Ukraine. Some of them provoke negative processes in the Ukrainian religious environment.

484. In 1998 it was established that certain foreign preachers had violated the laws currently in force, in particular article 24 of the Ukrainian Act on Freedom of Conscience and Religious Organizations. Without the official authorization of bodies of State power, they engaged in religious activities which do not meet the requirements for prior legal authorization. In addition, some foreign priests travelled to Ukraine at the invitation of charitable and public organizations which were not registered with judicial bodies or territorial bodies of power. There were 42 such violations of the law in 1998. Various administrative penalties were used to punish the offenders, and seven of them had their stay in Ukraine shortened.

485. There is no single State programme concerned with the holding of religious ceremonies in places of detention. It has been decided to establish prayer rooms in places of detention with the aim of implementing the right of detainees, individually or together with others, to profess their religion through the holding of services and the performance of religious and ritual ceremonies, and to observe its tenets in life. Equal opportunities are afforded to all denominations, and all detainees have the right to contact local priests without hindrance.

Article 19

486. Under article 34, first paragraph, of the Ukrainian Constitution, everyone has the right to the free expression of his views and beliefs.

487. In addition, article 15 of the Constitution states that social life in Ukraine is based on the principles of political, economic and ideological diversity.

488. No ideology may be recognized by the State as mandatory.

489. Censorship is prohibited.

490. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, or in writing or in print, in the form of art, or through any other media of his choice.

491. Under article 34, second paragraph, of the Constitution, everyone has the right freely to collect, store, use and disseminate information by oral, written or other means of his choice.

492. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

> For respect of the rights or reputations of others;
>
> For the protection of national security or of public order (*ordre public*), or of public health or morals.

493. The Ukrainian Constitution stipulates that everyone has the right to own, use and dispose of his property, and the results of his intellectual and creative activity (art. 41).

494. Citizens are guaranteed the freedom of literary, artistic, scientific and technical creativity, protection of intellectual property, copyright and the moral and material interests that arise with regard to various types of intellectual activity.

495. Every citizen has the right to the results of his intellectual, creative activity; no one may use or distribute them without his consent, with the exceptions established by law.

496. Article 34 of the Constitution stipulates that everyone has the right to freedom of thought and speech, and to the free expression of his views and beliefs.

497. The exercise of these rights may be restricted by law in the interests of national security, territorial integrity or public order, with the purpose of preventing disturbances or crimes, protecting the health of the population, the reputation or rights of other persons, preventing the publication of information received confidentially, or supporting the authority and impartiality of justice.

498. Article 9 of the Ukrainian Information Act states that all Ukrainian citizens, legal persons and State bodies have the right to information, entailing the possibility freely to receive, use, disseminate and store information which they need to exercise their rights, freedoms and legitimate interests and to perform their tasks and functions.

499. The exercise of the right of citizens, legal persons and the State to information must not infringe the public, political, economic, social, spiritual, ecological or other rights, freedoms and legitimate interests of other citizens or the rights and interests of legal persons.

500. Every citizen is granted free access to information regarding him personally, except in cases provided for by the laws of Ukraine.

501. Under article 46 of the Act, information may not be used to call for the overthrow of the constitutional order, to violate the territorial integrity of Ukraine, for propaganda for war, violence or cruelty, incitement to racial, national or religious enmity or encroachment on human rights and freedoms.

502. Information constituting a State secret or other secret provided for by law may not be disclosed.

503. Information concerning medical secrecy, financial investment, income from entrepreneurial activity, adoption, correspondence, telephone conversations or telegraphic communications may not be disclosed except in the cases established by law.

504. Under article 2 of the Ukrainian Act on Television and Radio Broadcasting, radio and television stations in Ukraine respect, in their activities, the principles of the objectivity and reliability of information, competence, guaranteeing the right of every citizen of access to information, free expression of opinions and thought, ensuring ideological and political pluralism, observance by radio and television broadcasters of professional ethics and the universal norms of morality.

505. Radio and television stations do not have the right in their broadcasts to disclose facts constituting a State secret or other secret protected by legislation, to call for violent change in, or the overthrow of, the existing State and public order or violation of the territorial integrity of Ukraine, to engage in propaganda for war, violence or cruelty, to incite racial, national or religious enmity, or to broadcast pornography or other information undermining public morality, inciting a breach of the law or demeaning human honour and dignity.

506. The Ukrainian Act on Printed Mass Media (the Press) in Ukraine contains similar norms.

507. For example, under article 2 of that Act, freedom of speech and the free expression in print of one's opinions and beliefs are guaranteed by the Ukrainian Constitution and under the Act signify the right of every citizen freely and independently to seek, receive, record, store, use and disseminate any information using printed mass media.

508. Article 3 of the Act stipulates that printed mass media in Ukraine may not be used for:

- the dissemination of information whose disclosure is prohibited under article 46 of the Ukrainian Information Act;
- calls to seize power or violently change the constitutional order or territorial integrity of Ukraine;
- propaganda for war, violence and cruelty;
- incitement of racial, national or religious enmity;
- the dissemination of pornography;
- or to commit any other criminal acts.

509. The use of the printed mass media to interfere in citizens' private lives and attack their honour and dignity, or to disseminate any information which may point to a minor offender without his consent and the consent of his representative, is prohibited.

510. These legislative acts establish liability for violating the above-mentioned norms of article 47 of the Ukrainian Information Act, article 18 of the Ukrainian Act on Printed Mass Media (the Press) in Ukraine, and articles 46 and 47 of the Ukrainian Act on Television and Radio Broadcasting.

Article 20

511. Under article 63 of the Ukrainian Penal Code, public calls for an aggressive war or a decision to unleash a military conflict are punishable by imprisonment of from three to eight years or correctional work for up to two years.

512. Under article 66 of the Code, premeditated acts aimed at inciting national, racial or religious enmity and hatred, or demeaning national honour and dignity or citizens' feelings associated with their religious beliefs, and direct or indirect restriction of citizens' rights or their established direct or indirect privileges on grounds of their racial or national origin or attitude to religion are punishable by imprisonment of up to three years, correctional work for up to one year or a fine of up to five and a half times the officially established minimum monthly wage.

513. If these acts are accompanied by violence, deceit or threats or are carried out by officials, they are punishable by imprisonment of up to five years, correctional work for up to two years or a fine of up to eleven times the officially established minimum monthly wage.

514. Acts referred to in the first or second paragraphs of this Act which were carried out by a group of persons or resulted in death or other harmful consequences are punishable by imprisonment of from three to ten years.

515. Article 66 of the Ukrainian Penal Code establishes liability for violating citizens' equality of rights on grounds of their racial or national origin or attitude to religion.

516. Not a single person was charged with committing this crime during the period under review (1994-1998).

517. The right of equality before the law in all spheres of economic, social, political and cultural life is guaranteed by article 24 of the Ukrainian Constitution: "Citizens have equal constitutional rights and freedoms and are equal before the law. There shall be no privileges or restrictions based on race, colour, political, religious and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics". The right of equality before the law and the prohibition of discrimination on grounds of ethnic characteristics is also proclaimed in the Ukrainian Act on National Minorities in Ukraine (arts. 1, 9 and 18).

518. The duty of citizens to respect the culture, language, traditions, customs and ceremonies of national minorities is set forth in article 2 of the Ukrainian Act on National Minorities in Ukraine and article 11 of the Principles of Ukrainian Legislation on Culture. Under article 56 of the Ukrainian Education Act, educational and scientific-educational workers have a duty to prepare pupils and students for conscientious life in a spirit of mutual understanding, peace and harmony among all peoples and ethnic, national and religious groups.

519. On the instructions of the Ukrainian Ministry of Education, the Ministry of Education of the Autonomous Republic of Crimea and the educational departments of oblast State administrations and the Kyiv and Sevastopol urban administrations have set up scientific and practical groups to discuss issues relating to multicultural education, the teaching of mutual respect among representatives of various races, and the prevention and settlement of situations of national and religious conflict.

520. The State devotes much attention to the development of cooperation among national minorities. Their representatives jointly discuss issues and take decisions in an advisory body, the Council of Representatives of Public Associations of National Minorities, which functions under the aegis of the State Committee for Nationality and Migration Affairs (the central body of executive power in the regulation of inter-ethnic relations); advisory councils of representatives of national minorities operate within local bodies of executive power; in Crimea there is the Crimean Association of National and Cultural Communities and Congregations; a Confederation of Western Ukrainian National and Cultural Communities has been founded; the First Inter-National Congress, at which a common position of national minorities on questions of the national and cultural development of Ukraine was worked out, was held in 1991; a Second Inter-National Congress is planned for 1999; and national minorities publish an independent magazine, "My Homeland".

521. In the past two years, public organizations of national minorities have held conferences on "The Education of National Minorities in Ukraine" and "Social Protection in Ukrainian National Communities", which were attended by about 18 public organizations of Ukrainian national minorities.

522. The All-Ukrainian festival "We are all your children, Ukraine!", in which about 30 independent collectives of national minorities take part, is held once every two years.

523. Article 37 of the Ukrainian Constitution prohibits the activity of political parties and public organizations whose programme goals or actions are aimed at inciting inter-ethnic, racial or religious enmity. A similar provision is contained in article 66 of the Ukrainian Penal Code, which establishes liability for inciting national discord, demeaning national honour and dignity, and restricting rights on grounds of a citizen's national origin.

524. On the initiative of public associations of national minorities, article 18 of the current Ukrainian Act on National Minorities in Ukraine ("Any direct or indirect restriction of citizens' rights and freedoms on grounds of national origin is forbidden and punishable by law") is to be amended to read "Any direct or indirect restriction of citizens' rights and freedoms on grounds of national or racial origin, or acts aimed at inciting inter-ethnic, racial or religious discord, are forbidden and punishable by law" (the new draft Act is before the Supreme Council of Ukraine).

525. According to data of the Judaica Institute, which monitors anti-Semitic publications, about 260 such publications were issued in 1998. At the same time, the Institute notes an increase in the number of publications condemning anti-Semitism. Publications of various political tendencies combat anti-Semitic manifestations, and the number of conceptual publications has increased (those by leading politicians, members of the Ukrainian National Academy of Sciences, university professors, etc.).

526. Persons who insult national dignity are brought before the courts. For example, the procurator's office of the Lviv oblast brought an action against anti-Semitic articles in the newspaper "Idealist"; the Ukrainian Ministry of Information demanded that the newspaper "For a Free Ukraine" cease publishing anti-Semitic articles; following the publication of anti-Semitic articles in the newspaper "The Capital", the Kyiv urban State administration dismissed its editor-in-chief; and the Kharkiv oblast State administration stopped funding the newspaper "Panorama" for similar reasons.

527. Manifestations of national intolerance have been condemned by the President of Ukraine, L. Kuchma, who called upon all Ukrainian citizens and all political parties and organizations to create in society a climate of intolerance towards such shameful acts. The President noted that acts aimed at inciting inter-ethnic hatred are particularly offensive in view of the work which the Ukrainian State has done in recent years to preserve, guarantee and develop the national identity of representatives of national minorities.

528. The right to freedom of personal philosophy and religion is enshrined in article 35 of the Ukrainian Constitution and in article 4 of the Ukrainian Act on Freedom of Conscience and Religious Organizations of 1991. The second paragraph of that article states that "Any direct or indirect restriction of citizens' rights and freedoms or granting of direct or indirect privileges to citizens on grounds of their attitude to religion, and any incitement to enmity and hatred associated with this or citizens' views, entails the liability established by law", in particular by article 64 of the Ukrainian Penal Code.

Article 21

529. Under article 39 of the Ukrainian Constitution, citizens have the right to assemble peacefully without arms and to hold meetings, rallies, processions and demonstrations, upon notifying the bodies of executive power or bodies of local self-government in advance.

530. Restrictions on the exercise of this right may be established by a court in accordance with the law and only in the interests of national security and public order, with the purpose of preventing disturbances or crimes, protecting public health, or protecting the rights and freedoms of other persons.

531. In addition, in implementation of the instruction of the Prime Minister of Ukraine and in accordance with article 8 of the Ukrainian Act on Local Self-government in Ukraine, the Ukrainian Ministry of Justice has drafted a Ukrainian Act on the procedure for holding citizens' general assemblies in their places of residence.

532. This draft Act states that the holding of citizens' general assemblies in their places of residence is a form of their direct participation in the settlement of local issues (meetings of all or some of the inhabitants of a village or villages, settlement or town to resolve local issues).

533. Under article 39 of the Ukrainian Constitution, citizens have the right to assemble peacefully without arms and to hold meetings, rallies, processions and demonstrations, upon notifying the bodies of executive power or bodies of local self-government in advance.

534. In exercise of this right, more than 16 million Ukrainian citizens participated in 11,000 such events in 1998, or 18.5 per cent less than in 1997 (13,600). However, the number of participants rose by 9.2 per cent.

535. Restrictions on the implementation of this right may be established by a court in accordance with the law and only in the interests of national security and public order, with the purpose of preventing disturbances or crime, protecting public health or protecting the rights and freedoms of other persons.

Article 22

Paragraph 1

536. Under the first paragraph of article 36 of the Ukrainian Constitution, citizens of Ukraine have the right to freedom of association in political parties and public organizations for the exercise and protection of their rights and freedoms and for the satisfaction of their political, economic, social, cultural and other interests, with the exception of restrictions established by law in the interests of national security and public order, the protection of public health or the protection of the rights and freedoms of other persons.

537. The Ukrainian Act on Citizens' Associations lays down the bases for the activities and status of citizens' associations, the procedure for their establishment and dissolution, their rights

and economic and other commercial activities. In particular, citizens' associations are voluntary public groupings established on the basis of unity of interests for the overall realization by citizens of their rights and freedoms (art. 1, first paragraph, of the Act).

538. Under article 11, second paragraph, the founders of public organizations may be citizens of Ukraine, citizens of other States or stateless persons over the age of 18, or over the age of 15 for young people's and children's organizations.

539. Under the initiative procedure set forth in article 93 of the Constitution, Ukrainian People's Deputies V. Borzov, S. Kurikin and O. Kostusev, and Ukrainian People's Deputies O. Karpov, B.Bespaly and Y. Sakhno, have submitted draft Ukrainian Acts on public organizations which propose to regulate the particular features of those organizations' activities and to determine their status, rights and duties.

540. Article 36, third paragraph, of the Constitution states that citizens have the right to take part in trade unions for the purpose of protecting their labour and socio-economic rights and interests.

541. Trade unions are public organizations that unite citizens bound by common interests that accord with the nature of their professional activity. Trade unions are formed without prior permission on the basis of the free choice of their members. All trade unions have equal rights. Restrictions on membership in trade unions are established exclusively by the Constitution and the laws of Ukraine.

Paragraphs 2 and 3

542. Under article 37 of the Ukrainian Constitution, the establishment and activity of political parties and public associations are prohibited if their programme goals or actions are aimed at eliminating the independence of Ukraine, changing the constitutional order by violent means, violating the sovereignty and territorial integrity of the State, undermining its security, unlawfully seizing State power, propaganda for war and violence, incitement of inter-ethnic, racial, or religious enmity, and encroachments on human rights and freedoms and public health.

543. Political parties and public associations may not have paramilitary formations.

544. The creation and activity of organizational structures of political parties is not permitted within bodies of executive and judicial power and executive bodies of local self-government, in military formations, and also in State enterprises, educational establishments and other State institutions and organizations.

545. The activity of citizens' associations may be prohibited only through judicial procedure.

546. Article 4 of the Ukrainian Act on Citizens' Associations provides for restrictions on the creation and activity of citizens' associations. For example, such organizations may not be legalized, and the activity of legalized citizens' associations is prohibited under judicial procedure, if their purpose is:

- to change the constitutional order through violence, and the territorial integrity of the State in any unlawful form;
- to undermine the security of the State by carrying out activities in favour of foreign States;
- propaganda for war, violence or cruelty, fascism and neo-fascism;
- to create unlawful paramilitary formations;
- to restrict universally accepted human rights.

547. The creation and activity of political parties whose leadership bodies or structural cells are outside Ukraine, as well as any structural cells of political parties within bodies of executive and judicial power, in the Armed Forces, the National Guard and Border Forces, at State enterprises, institutions and organizations and State educational establishments, is prohibited.

548. The right of citizens to freedom of association is an inalienable human right enshrined in the Universal Declaration of Human Rights and guaranteed by the Constitution and legislation of Ukraine.

549. The State promotes the development of political and public activity and citizens' creative initiative, and creates equal conditions for the activities of their associations.

550. Thus, a number of Ukrainian Acts governing the activities of citizens' associations have been adopted in recent years:

- Ukrainian Act on Charity and Charitable Organizations, 1998;
- Ukrainian Act on Young People's and Children's Public Organizations, 1998;
- Ukrainian Act on Professional Creative Workers and Creative Unions, 1998.

551. The Ukrainian Constitution guarantees citizens the right to freedom of association in political parties and public organizations for the exercise and protection of their rights and freedoms and for the satisfaction of their political, economic, social, cultural and other interests, with the exception of restrictions established by law in the interests of national security and public order, the protection of public health or the protection of rights and freedoms of other persons.

552. Political parties in Ukraine promote the formation and expression of the political will of citizens, and participate in elections. Only citizens of Ukraine may be members of political parties. Restrictions on membership in political parties are established exclusively by the Constitution and the laws of Ukraine.

553. No one may be forced to join any association of citizens or be restricted in his rights for belonging or not belonging to political parties or public organizations.

554. All citizens' associations are equal before the law (art. 36 of the Constitution).

555. The Ukrainian Act on Citizens' Associations is the basis for legislation governing the activity of citizens' associations in Ukraine.

556. Political parties and public associations may not have paramilitary formations.

557. The creation and activity of organizational structures of political parties is not permitted within bodies of executive and judicial power and executive bodies of local self-government, in military formations, and also in State enterprises, educational establishments and other State institutions and organizations.

558. The activity of citizens' associations may be prohibited only through judicial procedure.

559. Under this Act, the Ministry of Justice registers All-Ukrainian public organizations, political parties, international public organizations, All-Ukrainian and international charitable organizations, young people's and children's organizations and creative unions.

560. The Act states that citizens' associations are voluntary public groupings established on the basis of unity of interests for the overall realization by citizens of their rights and freedoms.

561. A political party is an association of citizens who are adherents of a particular national programme of social development, the main purpose of which is to participate in the preparation of State policies and the formation of bodies of power and of local and regional self-government, and to be represented in them.

562. Citizens' associations are established and operated on the basis of voluntary participation, the equality of rights of their members (participants), self-administration, legality and openness.

563. They are free to choose the direction of their activity.

564. All basic matters relating to the activities of citizens' associations must be decided at assemblies of all members of the association or their representatives.

565. The State ensures observance of the rights and legitimate interests of citizens' associations.

566. Interference by State bodies and officials in the activities of citizens' associations is prohibited, as is interference by citizens' associations in the activities of State bodies, officials or other citizens' associations, except in cases established by law.

567. In order to fulfil their statutory aims and tasks, registered citizens' associations enjoy the right:

- to participate in citizens' legal relations and to acquire property and non-property rights;
- to represent and defend their legitimate interests and those of their members (participants) in State and public bodies;
- to take part in political activities and organize mass events (assemblies, meetings, demonstrations and so forth);
- to provide moral, organizational and material support to other citizens' associations and help in their formation;
- to establish institutions and organizations;
- to receive the information needed to fulfil their aims and tasks from bodies of State power and administration and bodies of local self-government;
- to put proposals to bodies of power and administration;
- to disseminate information and conduct publicity for their ideas and aims;
- to create mass media.

568. Public organizations have the right to establish the enterprises needed to realize their statutory aims.

569. Political parties also have the right, under the procedure established by law, of:

- participation in the formation of State policies;
- participation in the establishment of bodies of power and representation in them;
- access to State mass media.

570. Citizens' associations have other rights established by Ukrainian laws.

571. In order to fulfil their statutory aims and tasks, registered citizens' associations may carry out necessary economic and other commercial activities through the establishment of financially independent institutions and organizations having legal status and of institutions within enterprises in accordance with the procedure established by law.

572. Political parties and the institutions and organizations established by them do not have the right to found enterprises, except mass media, or to engage in economic or other commercial activities, except for the sale of public political literature, other publicity and campaign material and goods bearing their own logo, the holding of festivals, celebrations, exhibitions, lectures and other public political events.

573. Public organizations and their unions may, in accordance with their statutes, found or be active in international public (non-governmental) organizations, form international unions of citizens' associations, support direct international contacts and links, conclude the appropriate agreements and take part in the implementation of measures which do not contravene Ukraine's international obligations.

574. Political parties have the right to found or be active in international unions whose statutes provide for the establishment only of advisory or coordinating central bodies.

575. The Ukrainian Act on Charity and Charitable Organizations lays down the general foundations for charity, ensures the legal regulation of social relations aimed at the development of charitable work and the affirmation of humanism and charity, guarantees State support for its participants, and creates the conditions for the work of charitable organizations in accordance with the laws of Ukraine.

576. A charitable organization is a non-governmental organization the main purpose of whose activity is to do charitable work in the interests of society or particular categories of people in accordance with the Act.

577. Charity and charitable work are performed on the basis of legality, humanity, the community of interests and equality of rights of participants, openness, voluntary participation and self-administration.

578. The activities of charity workers and charitable organizations are public, but this does not conflict with their cooperation with bodies of State power and does not deprive them of the right to receive State support.

579. In order to carry out their charitable activities, charitable organizations have the right:

- independently to decide matters concerning the provision of charitable aid to recipients and to use donations given to charitable workers to implement a specific part of the programme in accordance with the conditions attaching to the donation;

- to establish their departments, branches and offices in accordance with Ukrainian law;

- to join together in unions, associations and other groupings formed on a voluntary basis and assisting in the fulfilment of statutory tasks; to exchange information and experts with corresponding organizations abroad; to organize the collection of charitable donations and contributions from physical and juridical persons, foreign Sates and international organizations;

- continuously to determine the forms, objects, subjects and volumes of charitable aid;

- to open accounts (in national and foreign currencies) with banks;

- to found mass media, enterprises and organizations and to engage in publishing activity;

- to hold membership of other charitable organizations;

- to have their own logo, which must be registered by the State in accordance with the procedure laid down in the Ukrainian Act on Citizens' Associations for the registration of the logos of citizens' associations;

- to publicize their name (designation) and logo;

- to have other rights in accordance with the laws of Ukraine.

580. The State, through its bodies of power, guarantees and defends the rights and interests laid down in Ukrainian law of physical and juridical persons holding membership of charities and participating in charitable activities.

581. Interference by bodies of State power and bodies of local self-government and their officials in the activities of charitable organizations is prohibited, as is interference by charitable associations in the activities of bodies of State power and bodies of local self-government, officials or other citizens' associations, except in cases established by law.

582. Participants in charitable activities have the right to carry out international charity work in accordance with the Act and with other normative legal instruments and international treaties of Ukraine which the Supreme Council of Ukraine has declared binding.

583. International charitable work is carried out through participation in international charitable projects and in the work of international charitable organizations, and also in other ways which do not contravene Ukrainian laws or the norms and principles of international law.

584. The priority focus of international charitable work is cooperation with Ukrainians abroad.

585. Recipients of charitable aid and charitable organizations have the right to receive donations from physical and juridical bodies of other States.

586. The specific organizational and legal bases of the formation and activities of young people's and children's public organizations, and State guarantees ensuring their activities, are laid down in the Ukrainian Act on Young People's and Children's Public Organizations.

587. Young people's public organizations are associations of citizens from the ages of 14 to 28 whose purpose is to carry out activities aimed at the satisfaction and defence of their lawful social, economic, creative, spiritual and other general rights.

588. Children's public organizations are associations of citizens from the ages of 6 to 18 whose purpose is to carry out activities aimed at the realization and defence of their rights and freedoms and creative capability, the satisfaction of their own interests which do not contravene the law, and social transition to full and equal members of society.

589. They are established and operated on the basis of voluntary membership, the equality of rights of their members, self-administration, legality and openness.

590. Bodies of executive power and bodies of local self-government involve young people's and children's public organizations in the preparation and discussion of draft resolutions on matters of State policy concerning children and young people.

591. The State supports young people's and children's public organizations by:

- informing young people's and children's public organizations about State policies for children and young people;
- providing methodological and organizational assistance on matters of social transition and the development of young people and children;
- favouring the creation of enterprises, institutions and organizations providing services to young people and children or promoting the employment of young people.

592. Young people's and children's public organizations are exempt from payment for State registration and the charge for registration of their logo.

593. The State also provides support in other ways which do not contravene Ukrainian law.

594. The Ukrainian Act on Professional Creative Workers and Creative Unions defines the legal status of professional creative workers and establishes the legal, social, economic and organizational bases for the activities of creative cultural and artistic unions.

595. A creative union is a voluntary association of creative workers in a cultural or artistic professional group which has a fixed membership and operates on the basis of statutes.

596. A creative union operates on the principle of the voluntary association of its members belonging to a single cultural or artistic professional group, self-administration, mutual

assistance and cooperation, non-interference in the creative process, free choice of the forms and methods of creative activity and recognition of copyright. One or more voluntary creative associations may be established in each professional group.

597. Creative unions are independent in their statutory activity of bodies of State power and bodies of local self-government, political parties and other public organizations.

598. The State supports and defends the lawful rights and interests of creative unions and guarantees uniform conditions for the fulfilment of their statutory tasks and aims.

599. Creative unions have the right:

- to carry out creative and economic activity in accordance with the procedure established by law in order to fulfil their statutory tasks;
- to represent and defend the rights and legitimate interests of their members;
- to participate in the preparation of normative legal instruments concerning the activities of creative unions and the status of creative workers;
- to participate in the determination of the principles of State policy for remuneration of creative unions, and creative workers' insurance, pensions, employment and legal, social and economic protection;
- to nominate professional creative workers for State awards, honours, State prizes and other forms of moral and material incentive;
- to adopt measures of social and economic support and charity;
- to create, in accordance with the established procedure, funds of creative unions with the rights of juridical persons to fulfil the union's statutory tasks and aims;
- to possess, use and dispose of property on the basis of ownership rights, in accordance with Ukrainian law;
- to have priority in the extension of leases for premises which they rent out as creative workshops, studios, laboratories and the like.

600. Creative unions may, in accordance with their statutes, found or be active in international creative organizations or associations, support direct international contacts and links, conclude appropriate agreements and take part in the implementation of measures which do not contravene Ukraine's international obligations.

601. Ukrainian creative unions' international activities and cooperation in this field take place on the basis of Ukraine's international treaties which the Supreme Council of Ukraine has declared binding, the Ukrainian Act on Professional Creative Workers and Creative Unions,

other Ukrainian Acts and agreements concluded by creative unions with corresponding organizations abroad. If an international treaty establishes rules different to those laid down in Ukrainian legislation, the rules of the international treaty signed by Ukraine apply.

Article 23

602. The Ukrainian State Committee on Family and Youth Affairs, together with the ministries and bodies of executive power concerned, is working actively on issues relating to the establishment of a legislative base.

603. On 5 March 1999, the Supreme Council of Ukraine adopted the Declaration on General Principles concerning the Family and Women - the basic document for the preparation of normative instruments in the family sector.

604. A draft Concept for State policy on the family has been prepared and sent to the Supreme Council of Ukraine.

605. Work on the new version of the Rules of Guardianship and Fostering is nearing completion.

606. As funding is limited, the situation can be improved only by introducing new criteria into legislation for the provision of assistance to families and children and reviewing the numbers receiving it in the light of families' material and domestic situation.

607. With a view to the adoption of urgent additional measures for the social protection of the most vulnerable strata of the population, the Cabinet of Ministers of Ukraine adopted Ordinance No. 238 of 22 February 1999, instituting, from 1 April 1999, targeted social assistance for low-income families consisting of persons unable to work (pensioners, handicapped persons, children under 16 (students up to 18) and of persons of able-bodied age who are not working or are caring for children as part of work experience, persons with three or more children or caring for handicapped persons of Group I or handicapped children up to 16 years of age, and persons over 80.

608. On 27 May 1999 the Cabinet of Ministers of Ukraine adopted Ordinance No. 915 on Rates of State Assistance to Families with Children in the Second Half of 1999, under which the rates of State assistance were increased.

609. In addition, a new draft version of the Ukrainian Act on State Assistance to Families with Children was prepared and sent to the Cabinet of Ministers of Ukraine. This draft lays down a completely new procedure for the determination and payment of State assistance to families with children on a comprehensive and targeted basis, to come into effect from 1 January 2000.

610. Programmes under way to resolve family problems include, inter alia, "The Student's Family" and "Ukrainian Fatherland".

611. The State Committee on Family and Youth Affairs actively supports the National Family Planning Programme, which is aimed at improving the demographic situation in Ukraine,

enhancing the significance of the family's spiritual and moral values, and bringing children up in a sound family environment, including children who have lost their parents. Family forms of upbringing are being developed as an alternative to residential upbringing of orphans and children deprived of parental care.

612. The system of concessional loans to young families for the construction (renovation) of their homes is being broadly expanded.

613. About 350 young families received loans for the construction of a home, and 50 the keys to an apartment, in 1998. A total of 6.2 million hryvnas from the State budget and 11 million hryvnas from local budgets were allocated for this purpose.

614. Children's family homes - families in which the parents and their own children bring up 5 or more orphans - have been functioning in Ukraine for more than 10 years. Children's family homes are State-run. On 17 March 1998, the Cabinet of Ministers of Ukraine adopted Ordinance No. 310 on the Introduction of Amendments and Additions to the Ordinance on Children's Family Homes and a regional programme for the development of children's family homes was adopted. The last two years have seen an increase in the number of such families, of which there are now 85 in 20 Ukrainian oblasts.

615. Development of a new form of family upbringing for orphans and children deprived of parental care, the host family, has begun. On 2 March 1999 the Cabinet of Ministers of Ukraine adopted Ordinance No. 241 on the Conduct of an Experiment to Establish Host Families in the Zaporozhye Oblast and on Confirmation of the Ordinance on Host Families. Under this Ordinance, families may take in and bring up between one and four orphans, the State being responsible for funding their maintenance. Eighteen host families have now been established in the Zaporozhye oblast, and there is a data bank for applicants (of which there are more than 100) to be host parents.

Article 24

616. In assessing the situation of children in Ukraine and the level of their moral and physical development, it should be noted that it is precisely children who are suffering most from the social, economic and political upheavals, despite the efforts of the State.

617. That is why considerable attention has been devoted in legislative activity to the socio-legal aspect of the protection of children's rights, and legislative instruments amending the laws on problems of the social protection of children have been adopted. These are:

- the Ukrainian Act Amending the Ukrainian Act on Indexation of the Population's Monetary Income, under which citizens' monetary income received in hryvnas within Ukraine and not constituting a one-off payment, including social assistance to families with children, is subject to indexation;

- the Ukrainian Act Amending the Ukrainian Employment Act, which introduces changes to the provision of guaranteed employment for certain categories of the population (women with children under the age of 16; single mothers with children up to 14 years of age or handicapped children).

618. Other new legislative instruments concerning problems of the social protection of children have also been adopted. They include:

- the Ukrainian Act on Bodies and Services for Minors' Affairs and Special Institutions for Minors, which set up an efficient system of State structures for working with children: services for minors' affairs, medico-social rehabilitation centres, shelters for minors, and a penal militia for minors' affairs, the basic purpose of which is to provide legal and social assistance for children needing it;

- the Ukrainian Act on Ukrainian Citizenship, section IV of which governs matters of children's citizenship in cases where the parents change their citizenship and where children are adopted;

- the Ukrainian Act on Charity and Charitable Organizations, which lays down the general foundations of charity, provides legal regulation of relations aimed at the development of charitable activities and the affirmation of humanism and charity, guarantees State support for its participants and creates conditions for the activities of charitable organizations in relation to Ukrainian legislation.

619. Draft Ukrainian Acts have been prepared and submitted for consideration in accordance with the established procedure on the following subjects: protection of children, the introduction of amendments and additions to the Ukrainian Act on Bodies and Services for Minors' Affairs and Special Institutions for Minors, State assistance to families with children, the introduction of amendments and additions to the Ukrainian Housing Code (which regulates, in particular, matters pertaining to the reservation of housing and property for orphans and guarantees the right to temporary housing until they are given permanent housing), and the introduction of amendments and additions to the Ukrainian Act on Privatization of the State Housing Stock of Ukraine.

620. The President of Ukraine has adopted Decree No. 1153/97 of 17 October 1997 on the Approval. of Measures to Improve the Situation of Orphans and Children Deprived of Parental Care, and Decree No. 200/98 of 18 March 1998 on the Approval of Comprehensive Measures to Prevent Delinquency and Neglect among Children and their Social Rehabilitation in Society.

621. The National Family Planning Programme (1995) and the "Children of Ukraine" National Programme (1996), which are aimed at protecting the rights and interests of children, have been drawn up and are in effect in Ukraine.

622. State reports and a draft periodic report on the implementation by Ukraine of the provisions of the United Nations Convention on the Rights of the Child have been prepared for 1996 and 1997. A draft State report on the situation of children in Ukraine (for 1998) has also been prepared.

623. A number of laws and decisions aimed at providing social and economic support for the most vulnerable groups of children - orphans, handicapped children, children who have suffered as a result of the Chernobyl disaster, children who are HIV-positive or have AIDS, children from low-income or large families - have been adopted in Ukraine. A number of benefits were introduced to improve the situation of children who are HIV-positive or have AIDS under the Ukrainian Act on Prevention of AIDS and Social Protection of the Population. The Ordinance of the Cabinet of Ministers of Ukraine on the Procedure for, and Rates of, Compensatory Payments to Children Who Have Suffered as a Result of the Chernobyl Disaster (1997) established monthly monetary compensation for children studying in areas of radioactive pollution and for children who have suffered as a result of the Chernobyl nuclear accident. The amount of these payments is, however, insufficient fully to improve the living conditions of these categories of children or heal them.

624. In the case of children deprived of their family environment, Ukrainian legislation establishes the following forms of child maintenance for children deprived of parental care:

- adoption (the preferred form);
- guardianship, or child care by a physical person (the guardian);
- State institutions for children deprived of parental care;
- family-style children's homes;
- host families.

In all, there are about 90,000 orphans and children deprived of parental care in Ukraine.

625. More than 53,000 children and adolescents up to the age of 18, and about 62,000 adopted children and adolescents, were being brought up in citizens' families (under guardianship). Ukraine has 39 boarding schools for orphans and children deprived of parental care, 50 children's homes under the aegis of the Ministry of Education, 43 children's homes under the aegis of the Ministry of Public Health and 86 family-style children's homes.

626. It is planned to open 65 family-style children's homes (for 400 inhabitants) in 1999, requiring additional expenditure of 757,000 hryvnas, and to place 100 children in host families, at an annual cost for their maintenance of 160,000 hryvnas.

627. Social protection of neglected and homeless children is provided by 82 shelters for minors, in accordance with the Ukrainian Act on Bodies and Services for Minors' Affairs and Special Institutions for Minors. Social assistance was provided in shelters for 15,117 minors in 1998. A further 28 shelters for minors need to be established in 1999, with a maintenance cost requirement of about 3 million hryvnas.

628. Publicity continues to be given to the provisions of the United Nations Convention on the Rights of the Child, which were published in Ukraine in 1997 with UNICEF assistance.

Paragraphs 1-3

629. The Ukrainian Act on Ukrainian Citizenship regulates matters concerning the acquisition by a child of Ukrainian citizenship, and also matters relating to the citizenship of children whose parents are Ukrainian citizens and children one of whose parents is a Ukrainian citizen (art. 13), acquisition of Ukrainian citizenship by children of stateless persons (art. 14), citizenship of children of unknown parents (art. 15), change of citizenship of children whose parents change theirs (art. 21), retention of citizenship by a child placed in guardianship or foster care (art. 22), acquisition of Ukrainian citizenship by a child if one parent acquires it (art. 23), retention of Ukrainian citizenship by a child if one parent relinquishes it (art. 24), acquisition of Ukrainian citizenship by children in case of adoption, guardianship or foster care (art. 250), retention of Ukrainian citizenship by children in case of adoption (art. 26), and the need for children's consent in changing their citizenship (art. 27).

630. In respect of the article in the Covenant which states that every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State, it should be noted that the second and third paragraphs of article 51 of the Ukrainian Constitution stipulate that parents are obliged to support their children until they attain the age of majority. The family, childhood, motherhood and fatherhood are under the protection of the State.

631. Similarly, articles 60 and 61 of the Ukrainian Marriage and Family Code state that responsibility for defending the rights and interests of minor children lies with their parents, acting without any special powers. In the event of minors' marriage (art. 16 of the Code), they acquire full legal capacity from the time of the marriage and defend their rights and interests themselves; parents have the right and the duty to bring up their children, to take care of their health, their physical, spiritual and moral development and their education and to prepare them for work.

632. Parents' rights may not be exercised against their children's interests.

633. Where parents do not (or one parent does not) properly fulfil their obligations to bring up children or abuse parental rights, children have the right to apply to guardianship and foster care bodies for the protection of their rights and interests.

634. The Ukrainian Act on the Status and Social Protection of Citizens who Suffered as a Result of the Chernobyl Disaster was adopted on 28 February 1991.

635. This Act lays down fundamental provisions concerning the constitutional exercise of the rights of victims of the Chernobyl disaster for the protection of their life and health, and establishes a single system for determining categories of areas of radioactive contamination, living and working conditions in them and social protection of the victims.

636. Section V of the Act, together with the amendments and additions introduced by Ukrainian Acts No. 2532-XII of 1 July 1992 and No. 230/96-VR of 6 June 1996, establishes protection of child victims of the Chernobyl disaster.

637. The categories of children who were victims of the Chernobyl disaster are set out in article 27 of the Act.

638. Article 28 relates to the protection, healing and rehabilitation of the child victims.

639. Also covered are provisions of foodstuffs to child victims (art. 29), privileges and compensation for child victims and their parents, and assistance to families with children of school age living in areas of radioactive contamination (arts. 30 and 31).

640. In particular, under article 29, child victims are provided, in accordance with physiological norms laid down by the Ukrainian Ministry of Public Health, with foodstuffs and food additives promoting the elimination of radionuclides from the body.

641. Under article 30, child victims and their parents are also guaranteed the following compensation and privileges:

(1) full State maintenance of children up to school enrolment (not later than at eight years of age) through free education (maintenance) in State pre-school educational establishments and the granting of monthly assistance in an amount determined by the Cabinet of Ministers of Ukraine;

(2) issue and payment of medical certificates for care of sick children up to the age of 14 in the amount of 100 per cent of wages, irrespective of uninterrupted periods of work, throughout the illness, including treatment in a sanatorium or health resort for one parent or a person *in loco parentis* if the child requires supervision by the parents as certified by a medical advisory committee at the establishment where the child is being treated or is registered;

(3) free travel throughout Ukraine by all forms of transport (except taxis) for the child and the person accompanying the child to a place of treatment (rehabilitation) or convalescence and back (to medical establishments), with the right to priority acquisition of tickets;

(4) free medicines under doctor's prescriptions and free priority dentures (except dentures of precious metals or metals of equivalent value, as determined by the Ukrainian Ministry of Public Health);

(5) annual free provision to child victims, at the place of work of one parent, of convalescence vouchers of up to two months.

Child victims up to the age of 10 are given convalescence vouchers with one parent or the person *in loco parentis*, provided the latter are victims of the Chernobyl disaster. If the vouchers cannot be given, compensation in the amount of the average value of a voucher in Ukraine is paid.

The procedure for providing vouchers and the amount of their average value are determined by the Cabinet of Ministers of Ukraine.

If there is insufficient time on an annual voucher, one parent or the person *in loco parentis* is given a supplementary voucher without pay;

(6) monthly payment of half the minimum wage, irrespective of other payments, for each child of school age who was evacuated from the exclusion zone or was born after 26 April 1986 to a father who, at the time the mother conceived, had grounds to belong to category 1 or 2, or a mother who, at the time of conception or during her pregnancy, had grounds to belong to category 1 or 2, and for each child who lived in the zone of unconditional (obligatory) resettlement from the time of the disaster to the adoption of the resettlement resolution;

(7) paragraph 7, first part, of article 30 is no longer in force;

(8) monthly payment to families of the minimum wage for each child of school age who was disabled or is registered for illness resulting from the Chernobyl disaster, and for children of school age whose parents became invalids of group 1 or 2 or died as a result of the Chernobyl disaster, in place of the payment provided for in of article 29, paragraph 6, if the child concerned is not being fully maintained by the State. The need for the child to be registered is determined by the medical advisory committee;

(9) paragraph 9, first part, of article 30 is no longer in force;

(10) granting of pregnancy and maternity leave of 90 calendar days before the birth and 90 calendar days after it to women who suffered as a result of the Chernobyl disaster. This is given in full, irrespective of the actual number of days taken before the birth, and wages are paid in full irrespective of the term and place of work.

Women living in the area of radioactive contamination during their pregnancy are given vouchers for convalescence in specialized convalescent establishments.

The amount of assistance paid for care of child victims until they reach the age of 13 is twice that laid down in Ukrainian legislation, irrespective of other work;

(11) free meals for pupils of secondary general educational schools and vocational and technical educational establishments, and students at colleges and technical institutes (academies) situated in the areas of radioactive contamination (art. 2, paras. 2, 3 and 4, of the Act), and for children evacuated from the resettlement zone, children disabled as a result of the Chernobyl disaster and children who lived in the zone of unconditional (obligatory) resettlement from the time of the disaster to the adoption of the resettlement resolution. Compensation is paid, in accordance with the procedure laid down by the Cabinet of Ministers of Ukraine, to children who do not have their meals at the above educational establishments, and for all days on which they did not attend these establishments, until they attain the age of majority;

(12) provision of foodstuffs to child victims not attending children's pre-school establishments in the amount of the average value of meals in those establishments as determined by local Councils of People's Deputies, or payment of monetary compensation to parents if they so desire, if the children are not being fully maintained by the State;

(13) inclusion in the worksheet of one parent of the time spent caring for a child victim until he attains the age of 12.

642. The children referred to in article 27, paragraph 7, of the Act receive the privileges set forth in the first part of paragraphs 3, 4 and 5 of that article. One parent of those children, or the person *in loco parentis*, is granted the privileges set forth in the first part of paragraph 2 of that article.

643. Children referred to in article 27 of the Act whose incapacity has been determined to be connected with the Chernobyl disaster receive the compensation and privileges set forth in the first part of articles 1, 2, 3, 4, 6, 7, 8, 9, 10 and 11 of that article, as well as:

(1) free use of all forms of urban and suburban transport (except taxis seating less than 9 passengers) in Ukraine;

(2) obligatory priority provision of places in pre-school educational establishments, irrespective of the department to which they belong;

(3) one parent of a disabled child or the person *in loco parentis* may take regular leave at a time of their choosing and receives 14 days' additional leave with pay per year;

(4) access without competition to State establishments of higher education, vocational and technical education establishments and vocational training courses, with obligatory provision of hostel accommodation for the period of their studies to those without a home, and guaranteed payment of scholarships, increased by 100 per cent, irrespective of the place of study in Ukraine. Persons who have completed studies in secondary general educational schools and vocational and technical educational establishments with distinction (outstanding grades) are accepted without examination at State higher educational establishments on the results of an interview. Such persons study at these establishments at State expense;

(5) priority provision at establishments of social protection and servicing by social protection services at home if the disabled child has no close relatives living with him;

(6) the social pensions paid to disabled children up to the age of 16 whose illness is connected with the Chernobyl disaster is increased by 100 per cent compared with the amount specified in article 94(c) of the Ukrainian Act on Pensions (No. 1788-12);

(7) provision of additional living space in the form of a separate room for a child who has been disabled as a result of the Chernobyl disaster and requires special care. The absence of a special room is a ground for inclusion in the apartments register. Families with an disabled child are given the right to priority in receiving accommodation;

(8) payment to a family with a disabled child of half the rent for use of a residence (within the norms laid down by Ukrainian legislation), calculated according to the rates established for manual and white-collar workers, and of half the established payment for use of communal services (water, gas, electricity, heating and other services) and the telephone, if the child lives with his family.

Privileges for payment of rent are granted to families with a disabled child living in houses of the State and social housing fund, and also for payment of communal services to families living in housing (residential) co-operatives and citizens' privately-owned houses.

Families with a disabled child living in houses without central heating receive half of the cost of fuel bought within the norms established for sale to the population;

(9) priority installation of a telephone and payment of half the installation costs for families with a disabled child;

(10) provision to a disabled child and one parent or person *in loco parentis* of an annual free voucher for any kind of convalescence or rest for two months. If the voucher cannot be given, compensation in the amount of the average value of a voucher in Ukraine is paid.

The procedure for providing vouchers and the amount of their average value are determined by the Cabinet of Ministers of Ukraine;

(11) priority free fitting of artificial limbs and dentures for disabled children.

644. In addition to the compensation and privileges referred to in the first part of the above article, the privileges referred to in paragraphs 2, 4 and 5 of the third part of this article are granted to children with grounds for inclusion in category 2 or 3, until they attain the age of majority.

645. After attaining the age of majority (or in the case of marriage or work placement in the cases established by current legislation, from the time of the marriage or work placement if they so desire), the persons referred to in article 27 of the Act receive privileges and compensation according to the categories set out in article 14 of the Act.

646. Children under the age of majority who, before entering State higher educational establishments and vocational and technical colleges situated outside the contamination zone, had grounds to be included in category 4 are granted the privileges set forth in paragraphs 4

and 5 of the first part of this article and paragraph 4 of the third part of this article. Of these children, students up to the age of 23 are granted the privileges referred to in article 22, paragraph 6, of the Act.

647. Article 31 of the Act establishes assistance to families with a child of school age who live in areas of radioactive contamination.

648. For families with children from the ages of 7 to 16 (students up to 18) who live in areas of radioactive contamination, the assistance provided for in current Ukrainian legislation is doubled.

649. In order to prevent any negative effects of waste on the health of children, article 32 of the Ukrainian Act on Waste, No.187/98-VR of 5 March 1998, prohibits the involvement of children and adolescents in the organized collection of waste material (as a secondary raw material) constituting a health hazard.

650. The Ukrainian Act on Young People's and Children's Public Associations, No. 281-XIV of 1 December 1998, was adopted to ensure the right of children to participate in public life.

651. This Act sets out the specific organizational and legal bases of the formation and activities of young people's and children's public organizations, and the State's guarantee for their activities.

652. Special social protection of students and those attending vocational and technical colleges is provided for in section VII of the Ukrainian Act on Vocational and Technical Education, No. 103/98-VR of 10 February 1998.

653. The disabled, orphans, children left without parental care and students who suffered as a result of the Chernobyl disaster have the right to special social protection in vocational and technical education (art. 41).

654. Article 42 of the Act stipulates that the State guarantees vocational and technical education, at a level corresponding to their abilities and possibilities, to disabled persons. All other things being equal, disabled persons have an overriding right to enrolment in vocational and technical colleges.

655. Vocational training or retraining of disabled persons is provided in the light of medical indications and contra-indications for subsequent work. Vocational training forms and methods are chosen in accordance with the conclusions of specialists of a medico-social commission.

656. Alternative forms of training are used together with conventional ones in vocational training.

657. Pensions and grants are paid in full to disabled persons throughout their studies.

658. Disabled graduates are placed in work in accordance with the law.

659. Article 43 of the Act guarantees to orphans and children left without parental care the overriding right to enrolment in vocational and technical colleges.

660. Orphans and children left without parental care are fully maintained by the State and the costs for their maintenance, the conditions of which are determined by the Cabinet of Ministers of Ukraine, are funded directly.

661. Orphans and children left without parental care who graduate from vocational and technical colleges receive State material assistance in accordance with norms established by the Cabinet of Ministers of Ukraine.

662. The State guarantees to orphans and children left without parental care who graduate from vocational and technical colleges work placement in the profession they have acquired and housing, in accordance with the law.

663. Article 23 of the Ukrainian Act on Prevention of AIDS and Social Protection of the Population, No. 155/98-VR of 3 March 1998, provides for monthly State assistance to children under 16 who are HIV-positive or have AIDS, in an amount determined by the Cabinet of Ministers of Ukraine.

664. The following Decrees of the President of Ukraine have been passed with a view to the health and public protection of children in Ukraine:

(a) Decree on Medical Treatment Privileges for Children Who Have Suffered Chemical Intoxication Alopecia, No. 304/95 of 12 April 1995. This Decree, aimed at the social protection of children who suffered chemical intoxication alopecia in Chernovtsy in 1988, provides for:

- compensatory payments to families with sick children to send them to Ukrainian medical establishments for consultations, treatment or convalescence, to cover the cost of inter-urban return journeys by rail, boat or car for the sick child and one parent or person *in loco parentis*;
- free medicines on doctor's prescriptions throughout the period of ambulatory treatment of children up to the age of 18;
- annual free convalescence for children up to the age of 18 in sanatoria run by the Ukrainian Ministry of Health;

(b) Decree on the Approval of Measures to Improve the Situation of Orphans and Children Left Without Parental Care, No. 1153/97 of 2 October 1997. The purposes of the measures approved under this Decree include:

- improvement of the system of social adaptation of orphans and children left without parental care, development of family-type arrangements for these categories of children, expansion of social and legal guarantees for minors, and protection of the property, residential and other interests of orphans and children left without parental care;

- creation of conditions for providing psychological, medical and educational assistance to orphans and children left without parental care;

- improvement of the material wellbeing of orphans and children left without parental care and provision of real assistance to them by establishments, institutions and organizations of various kinds of ownership, banks and cultural, educational, public, sporting and other organizations;

(c) Decree on the "Children of Ukraine" National Programme, No. 63/96 of 18 January 1996. The main aim of the "Children of Ukraine" National Programme is to ensure the right of every child to be born healthy, to live in conditions for all-round development and to receive reliable social and psychological protection. The Programme covers the period until 2000 and has become the guideline for establishing regional activities to improve the situation of children and corresponding local programmes based on integration of the activities of state institutions with those of public and other organizations;

(d) Decree on the Approval of Comprehensive Measures to Prevent Neglect and Delinquency Among Children, No. 200/98 of 18 March 1998. The need to prepare comprehensive measures to prevent neglect and delinquency among children and ensure their social rehabilitation in society results from the complex situation among minors, which gives rise to crime, a constant rise in the number of neglected children and the exacerbation of problems relating to inadequate social adaptation of adolescents. The chief purpose of these measures is to create the principles for an overall solution to the problem of preventing neglect and delinquency among children, creating the necessary conditions for their physical, intellectual and spiritual development, and preparing them for independent life.

665. These measures are directed at the implementation of the "Children of Ukraine" National Programme, form part of it and provide for the solution of such issues as:

- improving the normative and legal basis for preventing neglect and delinquency among children and bringing it into line with modern conditions and international norms;

- enhancing efficiency in the activities of all participants in the State system of social and legal protection regarding the solution of problems relating to the prevention of neglect and delinquency among children and their social rehabilitation in society;

- creating conditions for the social, psychological, educational, medical and legal support and rehabilitation of children behaving aberrantly, in particular by a corresponding increase in regional requirements for a network of shelters for minors;

- organizing theoretical and methodological studies on problems of preventing neglect and delinquency among children, and generalizing experience and the practical application of the most effective methods of such work;

- training and improving the skills of specialists working on the prevention of neglect and delinquency among children.

666. A number of Ordinances of the Cabinet of Ministers of Ukraine have been passed with the aim of working out a mechanism for the implementation of the norms laid down in legislative instruments concerning the protection of children's health:

> Ordinance No. 5 on the Approval of a Comprehensive Programme for Preventing Accidents on the Roads, in the Home and to Children and Other Industrial Accidents in the Period 1996-2000, of 3 January 1996;
>
> Ordinance No. 114 on a Concept for the Organization of Work for the Prevention of Non-Industrial Accidents, of 22 January 1996;
>
> Ordinance No. 203 on an All-Ukrainian Fund for Children's and Adolescents' Convalescence and Rest, of 12 February 1996;
>
> Ordinance No. 1072 on the Approval of the Regulations on the Centre for Medico-Social Rehabilitation of Minors, of 6 June 1996;
>
> Ordinance No. 323 on the Organization and Financing of Children's Rest and Convalescence, of 14 April 1997;
>
> Ordinance No. 336 on the Organization of Convalescence for Children who Suffered as a Result of the Chernobyl Disaster, of 14 April 1997;
>
> Ordinance No. 263, Regulations on the Procedure for Organizing Convalescence for Children Abroad, of 2 March 1998;
>
> Ordinance No. 1051 on the Rate of Annual State Assistance to Children under 16 who are HIV-Positive or have AIDS, of 10 July 1998;
>
> Ordinance No.1929 on Measures to Strengthen the Protection of Mothers and Children, of 4 December 1998;
>
> Ordinance No.1949 on Measures to Expand the Network of Paediatric Cardiac Surgical Services, of 10 December 1998;
>
> Ordinance No. 341, Programme for the Prevention of AIDS and Drug Addiction, of 9 March 1999.

667. The following ordinances of the Cabinet of Ministers have been adopted with a view to ensuring the right to social protection:

Ordinance No. 34 on Increasing the Rates of State Assistance to Various Categories of Citizens, of 10 January 1996;

Ordinance No. 35 on Compensatory Payments to Persons Who Suffered as a Result of the Chernobyl Disaster, of 10 January 1996;

Ordinance No. 37 on the Rates of Grants Awarded to Students, Pupils, Students at Educational Institutions and Postgraduate Students, of 10 January 1996;

Ordinance No. 832 on Increasing the Rates of State Assistance to Various Categories of Citizens, of 26 July 1996;

Ordinance No.1032 on Providing Hot Meals for Children from Needy Families, of 31 August 1996;

Ordinance No. 1589 on the Procedure for Providing Additional Living Space to Persons Who Suffered Radiation Sickness in Any Degree as a Result of the Chernobyl Disaster or Have Been Disabled, Disabled Children Requiring Special Care and Families Which Lost A Breadwinner Included in Category I, of 31 December 1996;

Ordinance No. 63 on the Further Development of the Network of Young People's Social Service Centres and Improving the Efficiency of their Activities, of 21 January 1998;

Ordinance No.348 on Comprehensive Measures by the Cabinet of Ministers concerning Implementation of the State Youth Policy in Ukraine ("Youth of Ukraine"), of 20 March 1998;

Ordinance No. 909 on Improving the Material Security of Orphans and Children Deprived of Parental Care, of 16 June 1998;

Ordinance No. 238 on the Introduction of Targeted Social Assistance to Needy Families, of 22 February 1999.

Ordinance No. 310 of the Cabinet of Ministers of Ukraine, on the Introduction of Amendments and Additions to the Resolution on Family-Style Children's Homes, of 17 March 1998, was adopted with the aim of ensuring the rights of a child deprived of parental guardianship who is living in a family.

668. The following ordinances have been adopted by the cabinet of Ministers of Ukraine with a view to improving the status of women in society:

Ordinance No. 993 on the Approval of the National Plan of Action for the Period 1997-2000 with Respect to Improving the Status of Women and Enhancing their Role in Society, of 8 September 1997;

Ordinance No. 614 on the All-Ukrainian Women's Congress.

669. In addition, the draft Ukrainian Act on the protection of children was adopted on 25 March 1999 on first reading. It will determine the basic principles of State policy concerning the protection of children in Ukraine and govern social relations in this sphere with a view to ensuring implementation of the constitutional right of children to life, health protection, education, social defence and all-round development.

670. A draft Ukrainian Act on social work with children and young people has been prepared. The basic aims of the draft Act are:

- to determine the basic principles of State policy concerning the social support and social development of children and young people;
- to create a normative basis for social work with children and young people;
- to govern legal relations in the conduct of social work with children and young people;
- to determine the rights, duties and responsibilities of subjects of social work.

671. The draft states that social work with children and young people is an activity of authorized bodies of State power, State and non-State social services for children and young people, citizens' associations and individual citizens aimed at creating the social conditions for the vital activities of children and young people, their harmonious and all-round development and the protection of their constitutional rights and freedoms.

672. To supplement the information given in previous reports, it should be noted that children's rights are set out in the new Constitution, too. In particular, article 51 states that parents are obliged to support their children until they attain the age of majority. Article 52 stipulates that children are equal in their rights regardless of their origin and whether they are born in or out of wedlock. Any violence against a child, or his or her exploitation, must be prosecuted by law. The maintenance and upbringing of orphans and children deprived of parental care is entrusted to the State.

673. The Ukrainian Act on Citizenship of Ukraine states that a child whose parents were on there territory of Ukraine at the time of his or her birth is a Ukrainian citizen, irrespective of whether the child was born within Ukraine or outside it.

674. If the parents are of different citizenship and one of them was on Ukrainian territory at the time of the child's birth, the child is a Ukrainian citizen:

- if he was born in Ukraine;
- if he was born outside the State but the parents or one of them was permanently resident in Ukraine at the time.

675. If the parents are of different citizenship and one of them was in Ukraine at the time of the child's birth while the other was stateless or unknown, the child is a Ukrainian citizen irrespective of his or her place of birth.

676. A child born in Ukraine of stateless parents permanently resident in Ukraine is a Ukrainian citizen.

Article 25

677. Under the first paragraph of article 38 of the Ukrainian Constitution, citizens have the right to participate in the administration of State affairs and All-Ukrainian and local referendums, and freely to elect and be elected to bodies of State power and bodies of local self-government.

678. Under article 70 of the Constitution, citizens of Ukraine who have attained the age of eighteen on the day elections and referendums are held have the right to vote at them.

679. Citizens deemed by a court to be incompetent do not have the right to vote.

680. A number of laws governing the right of citizens to vote and be elected at elections have been adopted to implement this constitutional norm. They are the Ukrainian Acts on Elections for President of Ukraine, of 5 March 1999, on Elections for People's Deputies of Ukraine, of 24 September 1997, on Elections for Deputies to Local Councils and Village, Settlement and Urban Assemblies, of 14 January1998, and on Elections for Deputies to the Supreme Council of the Autonomous Republic of Crimea, of 12 February 1998.

681. In 1991 the Supreme Council of Ukraine adopted the Ukrainian Act on All-Ukrainian and Local Referenda, which establishes the bases and procedure for, and the juridical consequences of, holding referenda.

682. Following the adoption of the Ukrainian Constitution, the President of Ukraine submitted a draft Ukrainian Act on the introduction of amendments and additions to the Ukrainian Act on All-Ukrainian and Local Referenda.

683. In addition, under the legislative initiative procedure provided for in article 93 of the Constitution, draft Ukrainian Acts on All-Ukrainian referenda (submitted by Ukrainian Deputies O. Kucherenko, Y. Ioffe and O. Abdulin) and on local referenda and other forms of direct expression of the will of a territorial community (submitted by O. Zhovtis, R. Bezsmertny and V. Zherditsky) have been put forward.

684. Article 71 of the Ukrainian Constitution stipulates that elections to bodies of State power and bodies of local self-government are free and are held on the basis of universal, equal and direct suffrage, by secret ballot.

685. Voters are guaranteed the free expression of their will.

686. Article 38, second paragraph, of the Constitution states that citizens enjoy equal right of access to the civil service and to service in bodies of local self-government.

687. Citizens are enabled to participate in resolving matters of State importance primarily through the right to vote. This is set forth in article 38 and the corresponding sections of the Constitution governing the procedure for elections and for the operation of the highest bodies of State power and bodies of local self-government in Ukraine.

688. Articles 127 to 129-1 of the Ukrainian Penal Code establish criminal liability for crimes associated with the violation of citizens' election rights (obstructing implementation of the right to vote, forgery of electoral documents, distortion or incorrect counting of the number of votes, infringement of electoral secrecy, violation of legislation on referenda).

689. Fourteen persons were charged with these offences during the period under review (1994-1998).

690. The Ukrainian Code of Civil Procedure was amended in the period 1990-1996 by the addition of a number of new chapters governing court procedure for the consideration of disputes arising during pre-election campaigns and elections.

691. In 1998 (a year of elections of People's Deputies to the Supreme Council of Ukraine), Ukrainian courts heard 1977 civil cases relating to appeals against the decisions of electoral commissions at various levels. Of these, 533 (29.6 per cent) were upheld by the courts and decisions were handed down accordingly.

Article 26

692. Under the first and second paragraphs of article 24 of the Ukrainian Constitution, citizens have equal constitutional rights and freedoms and are equal before the law.

693. There may be no privileges or restrictions based on race, colour of skin, political, religious and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics.

Article 27

694. Article 11 of the Constitution stipulates that the State promotes the consolidation and development of the Ukrainian nation and of its historical consciousness, traditions and culture, and also the development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities of Ukraine.

695. Under article 53, second paragraph, of the Constitution, citizens who belong to national minorities are guaranteed in accordance with the law the right to receive instruction in their native language, or to study their native language in State and communal educational establishments and through national cultural societies.

696. In 1992 the Supreme Council of Ukraine adopted the Ukrainian Act on National Minorities in Ukraine, setting out State guarantees to ensure the rights of national minorities.

697. The Ukrainian Act on Ratification of the Framework Convention for the Protection of Minorities was adopted by the Supreme Council of Ukraine on 9 December 1997.

698. The Ukrainian Act on Ratification of the European Charter for Regional and Minorities Languages has now been adopted on first reading at the session of the Supreme Council of Ukraine.

699. Ukraine has set a firm course towards bringing legislation ensuring the rights of minorities into conformity with international standards. In December 1997 the Supreme Council of Ukraine ratified the basic international document on protection of the rights of minorities - the Framework Convention for the Protection of Minorities. Under article 9 of the Ukrainian Constitution, the Framework Convention has become part of the national legislation of Ukraine.

700. Ukraine is a party to a number of international multilateral agreements on protection of the rights of minorities: the International Labour Organization Convention concerning Discrimination in respect of Employment and Occupation; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Prevention and Punishment of the Crime of Genocide; the UNESCO Convention against Discrimination in Education; the International Convention on the Elimination of All Forms of Racial Discrimination; the European Convention on Human Rights; the Convention on the Rights of the Child; and the Convention on the Elimination of All Forms of Discrimination against Women. Ukraine has signed but not yet ratified the European Charter for Regional and Minorities Languages and the (revised) European Social Charter.

701. The preservation and development of the cultures of national minorities is regarded by the Government as an integral part of overall national cultural development. Under the Principles of Ukrainian Legislation on Culture, the basic principles of State cultural policy include recognition that culture is one of the chief factors in the individuality of the Ukrainian nation and national minorities, and in the equality of citizens' rights and opportunities irrespective of their social status or national origin in the creation, use and dissemination of cultural values (art. 2); the development of the cultures of national minorities is a priority area of State cultural policy (art. 3).

702. The essence of this policy stems principally from the provisions of the Ukrainian Constitution, which ensures promotion of "the development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities of Ukraine" (art. 11). Under article 6 of the Act on National Minorities in Ukraine and other legislative instruments, national minorities are implementing their right to national and cultural autonomy.

703. The preservation and development of the cultures of national minorities is a subject to which the Government of Ukraine devotes constant attention. Its programme of activities for 1999 notes the need "to promote the development of the ethnic culture and linguistic and religious individuality of national minorities in Ukraine". In 1999, the Cabinet of Ministers of Ukraine approved the Comprehensive Measures to Develop the Cultures of National Minorities in Ukraine for the period up to 2001.

704. The provisions of the Constitution also guarantee the right to "the free development, use and protection of Russian and other languages of national minorities of Ukraine" (art. 10); they guarantee the right to receive instruction in their native language, or to study it (art. 53); and they prohibit any privilege or restriction on grounds of linguistic characteristics (art. 24). Under article 4 of the Principles of Ukrainian Legislation on Culture, the State guarantees "equal rights and opportunities concerning the use in the sphere of culture of the languages of all minorities living in Ukraine".

705. Every year programmes for national minorities and in their languages are broadcast for 1,229 hours on television and 1,988 hours on radio. Almost two-thirds of total air time on television and radio is taken up with broadcasts and films in Russian; the national television station UT-1 has been broadcasting the Hebrew programme "Yakhad" ("Together") for five years now, and Hebrew programmes are also transmitted in Chernovtsy, Lviv, Donetsk, Sevastopol and some other Ukrainian towns; the annual number of hours of German broadcasts in the Autonomous Republic of Crimea is 32 on television and 48 on radio; the Polish programme "Unity" is broadcast monthly on Zhitomir regional radio and "Red Guelder Rose" can be seen on Zhitomir regional television; television and radio programmes in Hungarian are broadcast daily in Zakarpatsky oblast and programmes from Hungary can be received throughout the oblast. In the Chernovtsy oblast, which has a compact population of ethnic Romanians (10.7 per cent of the regional population), more than 30 per cent of broadcasts by the oblast State television company and 25 per cent of radio air time in the oblast are taken up by broadcasts in Romanian.

706. In areas of Ukraine with a compact population of a substantial number of representatives of national minorities, State radio and television companies have set up specialized production units which continuously prepare broadcasts in the languages of national minorities. The State radio and television company "Crimea" broadcasts an annual total of 1,154 hours in German, Armenian, Crimean-Tatar and Russian. The Zakarpatsky oblast State radio and television company broadcasts in Hungarian, Romanian and German, the Chernovtsy oblast company in Romanian and Hebrew, and the Zhitomir oblast company in Polish. All the State oblast radio and televisions companies broadcast a sufficient number of programmes in Russian.

707. An interregional festival of television and radio programmes for national minorities was held for the first time in Izmail, in the Odessa oblast, in 1998. Representatives of the Romany, Romanian, Polish, Azerbaijani, Armenian, Czech and Moldavian minorities took part.

708. As of 1 January 1998, more than 1,300 newspapers in Russian and 95 newspapers (as against 48 in 1995) in languages of other national minorities were meeting the information needs of the national minorities.

709. These include: the newspaper of the Association of Jewish Organizations and Communities in Ukraine "Khadashot. News" (Kyiv), the Hebrew review "Bensiyakh. Interlocutor" (Kharkiv), the Jewish people's newspaper "Renaissance-91" (Kyiv), the newspaper of the Jewish Council of Bukovina "Chernovtsy Bulletin", the Belarussian newspaper "Belorus Galitsii", the Polish "Lviv News", the Tatar newspapers "Salam" and "Minaret", the German-language "Deutsche Kanal", and the Romanian-language magazines "Arkashul", "Plai Romanesk" and others.

710. The Ukrainian Act on State Support for Mass Media and Social Protection of Journalists stipulates that "the State provides direct assistance to the mass media, which promote in a purposeful way the development of the languages and cultures of the national minorities of Ukraine".

711. The parliamentary newspaper "The Voice of Ukraine" has six supplements for national minorities: "Roden krai" in Bulgarian, "Dzennik Kiyovski" in Polish, "Jewish News" in Hebrew, "Aragats" in Armenian, "Konkordiya" in Romanian and "The Voice of Crimea" in Crimean-Tatar. "The Voice of Ukraine" finances 50 per cent of the cost of preparing and issuing these supplements and supplies the material and technical needs of the editorial and publishing process. In areas with a compact population of national minorities, in particular in the Zakarpatsky, Odessa and Chernovtsy oblasts, regional newspapers in Romanian and Hungarian are published by the local authorities.

712. Article 53 of the Ukrainian Constitution and article 6 of the Ukrainian Act on National Minorities in Ukraine guarantee citizens the right to receive instruction in their native language, or to study their native language in State and communal educational establishments and through national cultural societies.

713. The right of national minorities to receive instruction in their native language, proclaimed in the Declaration of National Minorities' Rights, is enshrined in the Ukrainian Acts on National Minorities in Ukraine, on Languages in Ukraine, and on Education, and in the Principles of Ukrainian Legislation on Culture. It is also implemented under the State Programme for the Renewal and Development of National Minorities' Education for the Period up to 2000.

714. The programme of activities of the Cabinet of Ministers of Ukraine for 1999 includes "development of the network of State educational and training establishments and Sunday schools in which teaching and training are provided in languages of national minorities, in accordance with the ethnic composition of the regional population".

715. The Comprehensive Measures for the Development of the Cultures of National Minorities in Ukraine were approved by Ordinance of the Cabinet of Ministers of Ukraine of 1 March 1999. Their main aim is to create appropriate conditions for preserving and developing the culture of national minorities in Ukraine, and in particular to conduct scientific research on problems of meeting the ethno-cultural needs of national minorities, train cadres, open cultural centres, carry out cultural and educational measures, and develop mass media.

716. Persons belonging to national minorities have a right to education at all levels equal to that of the ethnic majority. The Ukrainian Act on Education stipulates (Art. 3): "Citizens of Ukraine have the right to free education in all State establishments regardless of sex, race, nationality, social and property status, type and nature of employment, philosophical beliefs, party affiliation, attitude to religion, faith, state of health, place of residence or other circumstances ...".

717. In addition, Ukraine is creating the conditions needed to meet the specific cultural and educational needs of national minorities. As stated in article 7 of the Ukrainian Act on National Minorities in Ukraine, "the State takes steps to train teaching, cultural, educational and other

national cadres through the network of educational establishments. State bodies provide assistance, on the basis of international agreements, to national minorities in training specialists in other countries".

718. The programme of activities of the Cabinet of Ministers of Ukraine for 1999 includes "enhanced training of highly qualified cadres from national minorities, taking account of the specific needs of the ethno-cultural development of minorities".

719. In order to meet the cultural and educational needs of schoolchildren from national minorities, about 170 official publications, textbooks and teaching aids, and phrasebooks in 19 languages of national minorities have been published in the last three years under the annual State Programme of Publications in the Languages of National Minorities. In particular, 26 textbooks and teaching aids in Polish, Romanian, German and Hungarian have been issued for pupils in classes I and II. Teaching aids on the history of the Romanian and Hungarian peoples have been issued jointly with the Romanian and Hungarian authorities.

720. Training of senior teaching staff for schools using the languages of national minorities is provided and funded by the State. These specialists are trained in 15 higher educational establishments in Ukraine: specialists in Polish language and literature at the philological faculty of the Ternopol State Pedagogical Institute; senior teaching staff for Hungarian-language educational establishments at the Zakarpatsky Pedagogical Institute, Beregovo; teachers of Polish at the I. Franko State University, Lviv; teachers of Bulgarian and Moldavian at the Izmail Pedagogical Institute; teachers of Slovak, Hungarian and Romanian at the Uzhgorod State University; teachers of Polish at the Lesa Ukrainka State University, Volynsk; teachers of Polish at the Zhitomir Pedagogical Institute; teachers of Modern Greek language and literature at the Mariupol Institute for Humanities; teachers of Russian language and literature at the Cherkasskoye State University; teachers for Romanian-language schools at the Chernovtsy State University; specialists in Romanian at the Chernovtsy Higher Pedagogical Educational Establishment; specialists in Slavonic philology at the Prikarpatsky State University; and teachers of primary classes and teachers at pre-school establishments with instruction in Romanian and Hungarian at the Mukachevo Teachers' College.

721. In addition, specialists for educational establishments of ethnic minorities in Ukraine are trained at private higher educational establishments: the International Solomonov University and the Kyiv institute "Slavonic University".

722. International links in education are being developed. For example, under the agreement on cooperation between the ministries of education of Ukraine and Romania in the 1997/98 and 1998/99 school years, the educational establishments of the two countries annually accept: up to 20 students to receive secondary education (including vocational training); up to 50 students to receive education in higher educational establishments; up to 3 research students; and up to 40 students on scholarships for 3-4 months.

723. A system exists for enhancing the professional skills of teachers at general educational establishments for national minorities. Teachers and scientists from Romania, Hungary and Slovakia are invited to give lectures. In addition, under international agreements with the ministries of education of Hungary, Moldavia, Poland and Romania, teachers at general

educational schools, specialists at higher educational establishments and teachers at pre-school educational establishments enhance their professional skills at educational establishments in those countries.

724. The State provides organizational and financial assistance to national minorities for the holding of mass cultural events: festivals, cultural days, conferences, seminars and the like. With the cooperation of local authorities, national minorities are given premises for their cultural and educational activities.

725. Cultural and artistic events take place regularly: they include the annual Festival of Slavonic Writing and Culture, the festival of Jewish culture "Shalom, Ukraine!", the Czech "Ples", the All-Ukrainian festival "We are all your children, Ukraine!", the All-Ukrainian festival of Polish artists' collectives "Raduga Polesa", the festival of Korean culture "Chusok", the Romanian "Mertsishor" and "Limba noastre" festivals, etc.

726. As of 1 January 1999 more than 1,150 amateur theatrical, musical and folkloric groups were established in national and cultural communities in Ukraine, including: 107 theatres, 292 choral groups, 277 dance troupes and 233 musical groups. The cultural and artistic traditions of their peoples are presented by the Jewish theatres "Mazeltov" and "Shtern", the Jewish intimate theatre (Kyiv), the Romany theatre "Romance" (Kyiv), the Crimean-Tatar theatre at Simferopol, the Hungarian theatre at Bregovo, Zakarpatsky oblast, the Polish people's theatre at Lviv and more than 30 Russian theatres in Ukraine.

727. Article 6 of the Ukrainian Act on National Minorities in Ukraine guarantees protection of the historical and cultural artefacts of national minorities. National minority rooms displaying about 1,100 historical and cultural artefacts have been opened in 120 museums in Ukraine (excluding Kyiv).

728. Literature in the languages of national minorities is published by the specialized publishing houses concerned and the corresponding editorial departments of regional State publishing houses. More than 350 titles in 22 languages of national minorities have been published over the past three years.

729. The cultural and educational aspirations of national minorities are met through special allocations from the State budget.

730. One of the priority areas in the programme of activities of the Cabinet of Ministers of Ukraine for 1999 is ensuring the constitutional rights and freedoms of national minorities.

731. In exercise of their right to free association, national minorities in Ukraine have established more than 400 public associations, 24 of them with All-Ukrainian status (at the beginning of 1995 there were about 260 national-culture associations, 18 of them All-Ukrainian).

732. National minorities freely hold meetings of their organizations. In the past few years there have been conventions and congresses of the Jewish Council of Ukraine, the All-Ukrainian Jewish Congress, the United Jewish Community of Ukraine, the Jewish Confederation of

Ukraine and the Congress of Jewish Organizations and Communities of Ukraine; the federation of Greek Communities of Ukraine; the community of Germans in Ukraine "Wiedergeburt"; the community of Poles in Ukraine; the community of Russians in Ukraine; the National Movement of Crimean Tatars; the Assembly of the Crimean-Tatar People of Ukraine and others.

733. Article 9 of the Ukrainian Act on National Minorities in Ukraine states: "Ukrainian citizens who belong to national minorities shall have the right to be elected or appointed on an equal footing to any post in bodies of legislative, executive or judicial power, bodies of local and regional self-government, the army, establishments, institutions and organizations".

734. On 1 January 1998, 97 of the 412 People's Deputies to the Supreme Council of Ukraine (23.5 per cent) were representatives of national minorities, including: 78 Russians, 6 Jews, 2 Belarussians, 2 Bulgarians, two Poles and an Adygei, a Karaim, a Moldavian, a German, a Romanian, a Hungarian and a Chuvash.

735. Article 5 of the Ukrainian Act on National Minorities in Ukraine guarantees that the interests and needs of national minorities will be taken into account by the legislative and executive authorities and bodies of local self-government through permanent committees on inter-national relations and consultative bodies made up of representatives of national minorities. One such consultative body – the Council of Representatives of Public Associations of National Minorities - meets under the Ukrainian State Committee for Nationality and Migration Affairs, the central body of State executive power for the regulation of inter-ethnic relations.

736. The aim of the Council's activity is to help in the drafting of legislation and other normative instruments on questions of inter-national relations and the development of the cultures, languages and traditions of national minorities, to provide local organizational and practical assistance to public organizations of national minorities and to participate in the holding of conferences, meetings, seminars and other events. Similar consultative bodies exist under local authorities in areas where there are compact settlements of national minorities.

737. The programme of activities of the Cabinet of Ministers of Ukraine for 1999 provides for "enhancement of the role of consultative and advisory bodies of public associations of national minorities in the settlement by bodies of executive power and local self-government of issues relating to the protection of the rights and satisfaction of the legitimate interests of national minorities".

738. The President and Government of Ukraine devote constant attention to matters relating to ensuring the rights of national minorities.

739. Meetings between leaders of associations of national minorities and the President of Ukraine, at which satisfaction of the needs of national minorities and ways of solving their problems are discussed, are held regularly. The President instructs the Ukrainian Government in the light of the results of these meetings.

740. The regular meeting between the President and leaders of All-Ukrainian public associations of national minorities took place on 24 February 1999. In his statement, the President pointed out that one of Ukraine's major achievements in the period of its independence was the preservation of inter-national peace and harmony in the country, as well as the fact that, as a result of the carefully thought-out State ethnic policy, all outstanding problems in that area had been resolved in a civilized manner.

741. The President has instructed bodies of executive power to continue work on improving national legislation in the sphere of inter-ethnic relations, to ensure that representatives of national minorities in Ukraine are included in the membership of official delegations and mixed intergovernmental commissions on questions of protecting the rights of national minorities, to give more widespread assistance to public organizations of national minorities in publicizing their activities in the mass media, to strengthen their monitoring of the preservation and appropriate care of places of historical significance for national minorities, and to seek financial and material opportunities to assist the activities of public organizations of national minorities.

742. Ukrainian legislation guarantees the right of national minorities to free cross-border contacts with persons of their nationality (Art. 15 of the Ukrainian Act on National Minorities in Ukraine).

743. This right is fully implemented in practice. For example, the Chernovtsy oblast State administration has arranged contacts for the national minorities in the region with their ethnic homelands and cooperation with scientific and educational establishments and artistic groups. Close relations have been established with the uezds of Suchav and Botosanci districts of Romania, with which protocols of economic and cultural cooperation have been signed. Cooperation between the Chernovtsy oblast administration and the Austrian province of Carinthia and the province of Swabia in Germany has been of considerable importance in settling problems relating to the German population. Contacts have been established with Polish provinces.

744. Ukraine does not stand in the way of the exercise by persons belonging to national minorities of their right to participate in the activities of non-governmental organizations, both national and international. Examples at the national level are the All-Ukrainian Jewish Congress, with a membership of some 160 Jewish organizations and communities; the United Jewish Community of Ukraine (292 organizations and communities); the Jewish Confederation of Ukraine (about 300 Jewish organizations and communities); the Association of National Societies and Communities of Crimea (15 organizations); the Confederation of National and Cultural Associations of Western Ukraine (about 10 organizations), etc. At the international level, the All-Ukrainian Jewish Congress participates in the work of the World Jewish Congress, and the Christian-Democratic Alliance of Romanians in Ukraine is a member of the Federal Union of European Nationalities.

745. The problem of the adaptation and integration into Ukrainian society of the Crimean Tatars and representatives of other nationalities deported by the totalitarian regime is constantly under review by Ukraine.

746. According to figures from the Central Office of the Ukrainian Ministry of Internal Affairs, of the total number of Crimean Tatars deported earlier, 251,258 had returned independently to and were living in the Autonomous Republic of Crimea (excluding Sevastopol). In addition, more than 12,000 Bulgarians, Greeks and Germans live in Crimea. Currently, deportees account for 11.6 per cent of the population of the Autonomous Republic of Crimea.

747. After the collapse of the Soviet Union, Ukraine virtually alone assumed the entire burden of costs associated with the return and housing of the deportees.

748. In October 1992, at the initiative of Ukraine, the heads of State of the CIS member countries, meeting in the Kyrgyz capital Bishkek, signed the Agreement on Questions relating to the Restoration of the Rights of Deported Persons, National Minorities and Peoples. Despite the signature of the agreement, however, Ukraine receives no support even now from States members of CIS for the restoration of the rights of deported peoples.

749. During the period 1991-1998, the Cabinet of Ministers of Ukraine adopted more than 20 ordinances and regulations to settle the entire range of issues affecting the Autonomous Republic of Crimea. The programme of specific measures to re-house the deportees is being implemented in four areas: socio-economic matters, political and legal affairs, international assistance and humanitarian issues.

750. Resources equivalent to US$ 300 million were spent on settling problems relating to the deportees during the period 1991-1998. More than two-thirds of this sum was used in the fist few years, including more than 70 million hryvnas out of the total capital investment which were spent on the building industry and the agro-industrial complex.

751. Nevertheless, because of the complex economic situation which has arisen in Ukraine in recent years, it is impossible to fully to fund the requirements for housing the deportees.

752. Currently, 48 per cent of those repatriated (about 110, 000 persons) are still without a home and are forced to live in hostels and private flats. There are 16,000 families on the waiting-list for a flat, and 20,000 families are engaged in their own building which they are unable to complete because of the constant increases in the price of building materials and construction services.

753. Progress in solving problems of development of the infrastructure of settlements with a compact population of Crimean Tatars is extremely slow: 70 per cent of them have no water supply and more than 25 per cent have no electricity.

754. Another problem that remains urgent is that of creating jobs for the repatriates. Of 133,100 able-bodied persons, 66,800 have been placed in work, most of them outside their speciality.

755. The following were built with funds allocated from the State budget in 1991-1998:

Homes (sq.m)	272.8
Schools (places)	2/260
Kindergartens (places)	440
Clinics	4
Telephone networks	200
Bathhouses	1
Shops	1
Water pipelines (km)	374.6
Electric power networks (km)	847.4
Roads (km)	81
Sewers (km)	3.4
Heating networks (km)	1.3
Wells	2

756. Specialists calculate that about US$2 billion would be required to solve all the social and economic, political and legal, and national cultural problems of the repatriates.

757. The Ukrainian State budget for 1999 includes 20 million hryvnas for measures relating to the return and housing of repatriates in Ukraine. Of this amount, 19 million hryvnas are for the Autonomous Republic of Crimea (including Sevastopol), of which 10 million hryvnas are for capital construction and 9 million hryvnas for social and cultural measures. As of 22 June 1999, 4,956 million hryvnas had been disbursed for the Autonomous Republic of Crimea, including 2.8 million hryvnas for capital construction and 2,156 million hryvnas for social and cultural measures.

758. Among political and legal issues, one of the most important and urgent problems is that of the acquisition of Ukrainian citizenship by the deportees.

759. The resolution of this problem was considerably simplified for a considerable number of deportees following the adoption by the Supreme Council of Ukraine of the Ukrainian Act on the Introduction of Amendments and Additions to the Ukrainian Act on Ukrainian Citizenship on 16 April 1997 and its entry into force from 20 May 1997.

760. Under the amended version, deportees do not need to live in Ukraine for an uninterrupted period of five years and have sufficient command of the Ukrainian language to converse in it if they can show that they, or just one of their parents or grandparents, were born in Ukraine.

761. The procedure for acquiring citizenship was simplified even further following the conclusion, on 4 September 1998, of the agreement between the Governments of Ukraine and Uzbekistan on a simplified procedure for Crimean Tatars to relinquish citizenship of Uzbekistan. This exempted deportees and their descendants from the payment of the compulsory charges and excise duty payable for substantiating that they are not citizens of Uzbekistan.
The implementation of the main provisions of this agreement will enable most of the repatriates (more than 70 per cent of those deported earlier who returned and now live in the Autonomous Republic Crimea came from Uzbekistan) to settle the issue of acquiring Ukrainian citizenship speedily.

762. Since the agreement came into force, about 26,500 repatriates have acquired Ukrainian citizenship.

763. According to figures from the Ministry of Internal Affairs, however, about 55,000 repatriates had not yet acquired citizenship of Ukraine as of 1 June 1999.

764. Another important political and legal issue concerns the status of the Crimean Tatar people in Ukraine.

765. At the instigation of the Cabinet of Ministers of Ukraine, an expert group on questions of indigenous peoples was set up with a view to the legislative regulation of the status of the Crimean Tatar people as an indigenous people. The membership of this group included representatives of bodies of executive power and scientists. Deputies to the Supreme Council of the Autonomous Republic of Crimea and representatives of the Government of the Autonomous Republic of Crimea were invited to the meetings.

766. The purpose of the expert group's work is to provide a scientific basis for the concept of "indigenous peoples", to regulate it through legislation, to determine the criteria for designating peoples as indigenous, and so forth.

767. The expert group's work has resulted in the preparation of a draft concept of Ukrainian State policy on indigenous peoples, which the Ukrainian Ministry of Justice has sent to a number of international organizations and national parliaments for their expert opinion.

768. The problem of renewing and developing the deported Crimean Tatars' education and culture is equally important. It should be noted that, since attention has been devoted primarily to urgent social issues, this problem has not been given priority. The educational and cultural situation of those deported earlier, however, is gradually improving. In particular, Ordinance No. 260 of the Council of Ministers of the Autonomous Republic of Crimea of 27 August 1997 approved the Programme for the Establishment and Development of a Network of Educational Establishments and Classes Offering Instruction in Ukrainian and Crimean-Tatar and Bilingual Schools and Classes, which provides for 40 schools with

Crimean-Tatar as their language of instruction to open by 2005. There are currently eight such schools in the Autonomous Republic of Crimea (1.4 per cent of the total number of schools), with 2,682 pupils.

769. Qualified national senior staff are trained by the Crimean State Industrial and Pedagogical Institute and Simferopol State University, which has faculties of Crimean-Tatar language and literature, Turkish and Greek philology and the like. The Simferopol Pedagogical College trains teachers for schools with Crimean-Tatar as their language of instruction.

770. State educational institutions under the aegis of the Ministry of Culture and Arts train young Crimean Tatars as actors, directors and club and library officials. Representatives of the Crimean Tatar population make up 40 per cent of the students at the Crimean College of Culture. The State Academy for leaders of culture and art provides retraining and skills enhancement for cultural workers from the Autonomous Republic of Crimea.

771. A Programme of News Coverage of Activities in the Radio and Television Area of the Autonomous Republic of Crimea has been prepared by the State radio and television authority.

772. The State radio and television company "Crimea" has national programme units staffed by Crimean Tatars, Bulgarians, Armenians, Greeks and Germans, the four latter being attached to the main national broadcasting unit. Of the total broadcasting time of 10 hours and 30 minutes, Crimean Tatars have 27 per cent, Armenians 2.5 per cent, Bulgarians 2.4 per cent, Greeks 2.1 per cent and Germans 1 per cent. One national programme unit broadcasts each day.

773. The overall solution of socio-cultural and humanitarian problems was the underlying aim of the draft State programme of adaptation and integration into Ukrainian society of deported Crimean Tatars and representatives of other nationalities and renewal and development of their culture and education, which was prepared by the Ukrainian State Committee for Nationality and Migration Affairs together with interested ministries and departments and transmitted for consideration by the Supreme Council of Ukraine.

774. The Ukrainian State Committee for Nationality and Migration Affairs is the authorized governmental body responsible for coordinating the process of the voluntary return and housing of deportees. The Republic Commission on Issues relating to Deported Peoples of Crimea and the Ukrainian section of the Intergovernmental Ukrainian-German Commission on Issues relating to Deported Germans Returning to Ukraine help to coordinate the activities in this sphere of various ministries, departments and local bodies of executive power.

775. The programme of activities of the Cabinet of Ministers of Ukraine for 1999 includes "the funding of measures related to the return and housing of deportees who have returned to Ukraine and continuation of the search for alternative sources of financing outside the State budget, involving international financial assistance. Instigation of the signing of bilateral agreements between the Ukrainian Government and the Governments of countries members of CIS on cooperation in promoting the voluntary return of deportees to Ukraine".

776. Under the Decree of the President of Ukraine on Measures to Honour the Memory of Victims of the Deportations from Crimea, of 27 April 1999, the Cabinet of Ministers of Ukraine has been instructed to speed up solution of the question of allocating resources to the housing of deportees who have returned to Ukraine and the financing of measures to honour the memory of victims of the deportations from Crimea.

777. A Decree of the President of Ukraine of 18 May 1999 established the Council of Representatives of the Crimean Tatar People under the aegis of the President's Office, with a view to the more operative settlement of political and legal, social and economic, cultural and other problems associated with the adaptation and integration of Crimean Tatars into Ukrainian society.

778. The Government is devoting considerable attention to the development of ethnic religious minorities, some of which have a clearly expressed ethnic religious characteristic (Calvinists, Lutherans, Jews, Muslims, Karaim, Crimchaks). Other communities are differentiated through a national characteristic within existing orthodox communities, and the national religious needs of congregations are met by holding services in their national languages.

779. In this connection, the Government is directing its efforts towards creating identical conditions for the exercise by national minorities of the right to a choice of religion and religious freedoms on an equal footing with persons belonging to the nation making up the majority of the population, and supporting the integration of ethnic religious minorities into Ukrainian society.

780. However, minorities do not always feel at the local level that they are being supported by the structures of power, often making them feel hurt and leading to accusations that the authorities are indifferent to their spiritual needs. Most of the problems are linked in all regions of Ukraine to the return to national religious minorities of installations and property relating to their worship which they formerly owned. In addition, some religious communities which are unable to start their own periodical publications are raising the question of more active publicity for their activities in central and local mass media. The inadequate supply of holy books and theological and liturgical material in national languages hampers the full spiritual renaissance of ethnic religious minorities.
